A.D.E Wills

A PLAIN-ENGLISH GUIDE

Protecting a Share of Your Home

Life Interest Trusts and severing a joint tenancy, explained.

How the way you own your home decides what happens to it, and the simple, two-part approach that can help keep around half its value for your children if life takes an unexpected turn. No jargon, no pressure and nothing to decide today.

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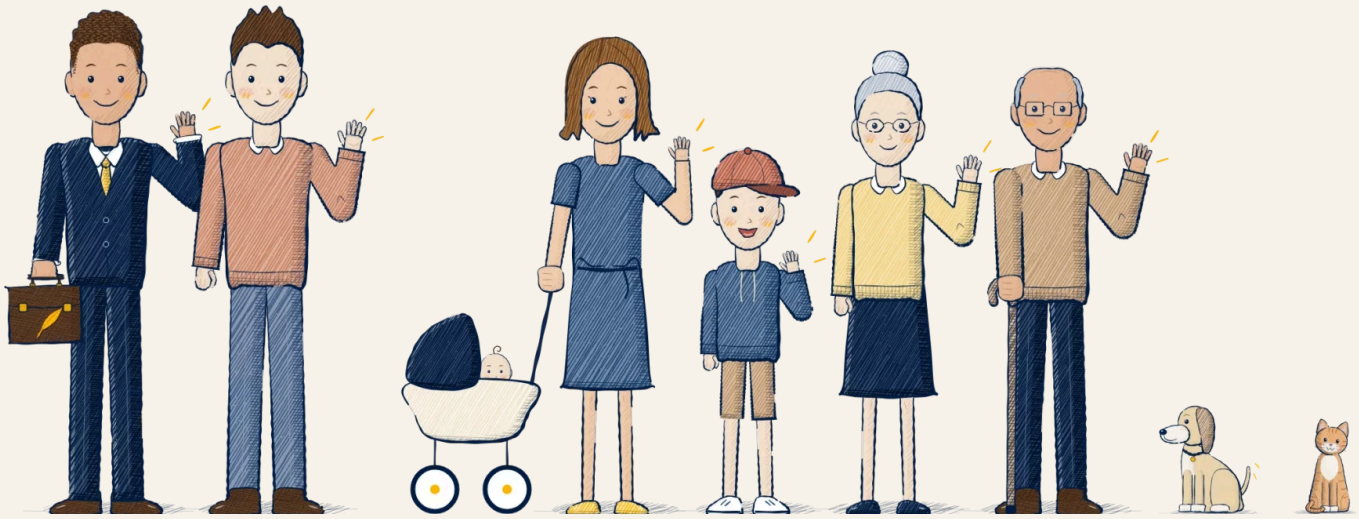
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THE STARTING POINT

How do you own your home?

When two or more people own a home together, they own it in one of two ways: as joint tenants or as tenants in common. Which one applies decides what happens to each share when one of you dies.

Many couples own their home as joint tenants, often without realising it. As part of our estate planning service, we check your Title Register at HM Land Registry to see which way you own your home, so our advice starts from the facts rather than a guess.



Joint tenants

You own the whole home together, with no separate shares. The **right of survivorship** applies: when one of you dies, the other automatically becomes the sole owner of the whole home.

This happens outside your Will. Whatever your Will says about the home, it passes to the surviving owner.



Tenants in common

You each own a distinct share. Shares are usually equal, 50% each, though they can be unequal, such as 60/40.

There is no right of survivorship. When one of you dies, their share passes under their Will, or under the intestacy rules if there is no valid Will. That is what allows a share to pass into a Life Interest Trust.



THE KEY DIFFERENCE

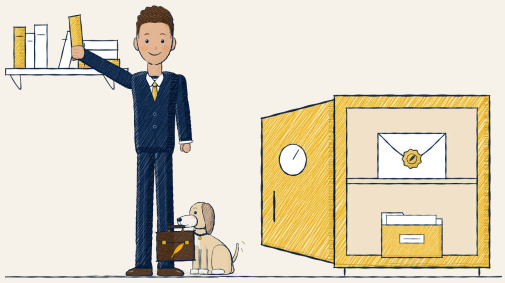
As joint tenants, your Will has no say over your home if you die first.

With a joint tenancy, the home passes automatically to the survivor. With a tenancy in common, your share passes through your Will, so you decide who inherits it.



How we check

Your Title Register is the official record of who owns your home. If you own it as tenants in common, it normally carries an entry known as a “Form A restriction”. If there is no such entry, you are usually joint tenants.



WHY IT MATTERS

The risks of a joint tenancy

If you own your home as joint tenants and one of you dies, the survivor becomes the sole owner. From then on, the whole home is exposed to two risks.

In this guide, “spouse” means a husband, wife or civil partner. Unmarried couples who own a home together can use the same approach; please ask us, as the tax position is different.

1

Sideways disinheritance

If the surviving spouse later remarries or lives with a new partner, they are free to leave the whole home to that person. Children can lose their inheritance through no fault of their own. Even with the best intentions, remarriage normally cancels the survivor’s existing Will, and a new partner, a new Will or simple bad luck can override what the first spouse wanted.



2

Care fees

If the surviving spouse later needs to live in a care home, the local authority carries out a means test to decide what they must pay. As sole owner, the whole value of the home can count towards their capital once nobody who qualifies still lives there. The home may need to be sold to pay for care, leaving far less for the children.



HOW WE CAN HELP

A two-part approach

1

Sever the joint tenancy

Change the way you own your home from a joint tenancy to an equal tenancy in common, so that you each have a distinct 50% share.

2

Add a Life Interest Trust

Include a Life Interest Trust in both of your Wills, so that each spouse’s share passes into the trust rather than outright to the survivor.



Neither does the job on its own

A Life Interest Trust in your Will can’t reach a home you own as joint tenants, because survivorship takes it first. And if you only sever, your share passes under your Will; if that leaves everything to the survivor outright, the same risks apply. Together, they work.

STEP BY STEP

How the Life Interest Trust works

Once the joint tenancy is severed and the trust is written into both of your Wills, this is what happens when the first of you dies.

1. ### The first spouse's share passes into the trust
   Their share of the home, and the rest of their estate if your Wills say so, goes into the Life Interest Trust rather than outright to the survivor. The surviving spouse still owns their own 50% share in their own right.

2. ### The survivor keeps the right to the home
   The surviving spouse becomes the **life tenant**. They can carry on living in the home, or benefit from it in other ways, such as receiving the income from the trust's share. They don't own the trust's share, so they can't give it away or leave it to someone else in their Will.

3. ### The trust comes to an end
   The trust ends when the survivor dies or, if your Wills say so, when they remarry or live with a new partner. The trust's share then passes to the people you chose, known as the **remaindermen**: usually your children equally, or their own children if a child has died first.



Who looks after the trust

You each name **trustees** in your Will to look after the trust. It is common to name the surviving spouse alongside at least one other trusted person, such as an adult child. Because the trust holds a share of a home, at least two trustees are needed if the home is ever sold, so naming more than one keeps things simple.

If the survivor wants to move

A Life Interest Trust doesn't tie the survivor to the home forever. If they want to downsize, the trustees can usually sell the trust's share alongside the survivor's own share, and use the trust's money towards a new home or keep it invested, with the survivor's life interest carrying on.

Exactly what the trustees can do depends on the powers written into your Wills, which we explain when we draft them.



LATER LIFE

If care is ever needed

Care fees are one of the main reasons couples choose this approach. Here is how the trust fits with the local authority's means test.

While one of you is at home

If one of you moves into a care home while the other still lives in the home, its value is ignored in the means test for the person in care. The real risk comes later, when the survivor is on their own.

When the survivor needs care

The trust can carry on. The share held in it can stay in the trust rather than passing to the survivor, so its value would not normally count as their capital. Their own share is still counted in the usual way.

If the home is let or sold

If the home is later let or sold, the trust's share of the money can stay in the trust for your children. Any income the trust pays the survivor, such as their share of the rent, counts as their income and goes towards their care fees, but the share itself can stay protected.

WORTH BEING CLEAR ABOUT

This helps protect around half the value of your home, not all of it.

- The survivor's own 50% share stays in their name and is assessed in the usual way.
- The trust only begins on the first death. While you are both alive, each of you owns your own share, so if you both needed care at that time, the trust could not protect either share.
- Local authorities can challenge steps a person takes to reduce their own assets to avoid care fees. A trust in the first spouse's Will is different: that share was never the survivor's to give away. Each case is looked at on its own facts, so no arrangement can be guaranteed.



THE PAPERWORK

Severing the joint tenancy

To change from joint tenants to equal tenants in common, which is what lets the Life Interest Trust in your Will do its job, we prepare two documents for you.

Notice of Severance of Joint Tenancy

A written notice that ends the joint tenancy, so that from then on you own your home as equal tenants in common, each with a distinct 50% share. You both sign it, so there is no doubt it has been given and received. If either of you then dies, that share passes through your Will, or under the intestacy rules if there is no valid Will.

Form SEV

The HM Land Registry form that adds a "Form A restriction" to your Title Register. It records that you now own your home as tenants in common, so that if one of you dies, a sale needs two trustees rather than the survivor alone. HM Land Registry charges no fee for this. We send the form once you have signed it and let you know when your register has been updated.

Timing matters

Severance has to be done while you are both alive. Writing a Life Interest Trust into your Wills does not, on its own, sever a joint tenancy, which is why we do both together.

IN SHORT

Severing gives you a share to protect. The trust protects it.

Done together, they help keep around half the value of your home for your children.



JARGON BUSTER

Life tenant	The person entitled to benefit from the trust until it ends, usually the surviving spouse.
Remaindermen	The people who inherit when the trust ends, usually your children.
Trustees	The people who look after the trust and make decisions about it.
Right of survivorship	The rule that passes a joint tenant's interest straight to the other owner on death, whatever their Will says.
Form A restriction	The entry on your Title Register showing you own your home as tenants in common.

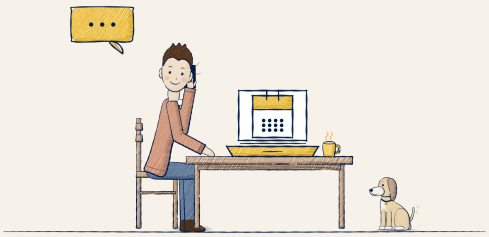
BEFORE WE START

What you need to do, and our fees

Check with your mortgage provider

If there is a mortgage on your home, please ask your lender whether it is happy for you to change from a joint tenancy to an equal tenancy in common before we go ahead. Most lenders are, but it is worth confirming first. Once you have their answer, let us know and we will take it from there.

No mortgage? We can go ahead straight away.



Equal shares only

We sever a joint tenancy into equal 50/50 shares only. Unequal shares, such as 60/40 or 70/30, need a Declaration of Trust, which is outside the work we do. We are happy to refer you to a solicitor or licensed conveyancer if you would like to explore it.

OUR FIXED FEES

Life Interest Trust	**£175** for a couple	Covers the trust in both of your Wills, not £175 each.
Sever a Joint Tenancy	**£195**	The Notice of Severance, Form SEV and sending it to HM Land Registry.
Title Register search	**£7**	Our check of how you own your home at HM Land Registry.

These sit alongside the fee for your Wills. Every fee is fixed and confirmed in writing before any work begins. No VAT is charged. Current fees for everything we do are at adewills.co.uk.

A SIMPLE NEXT STEP

Any questions?

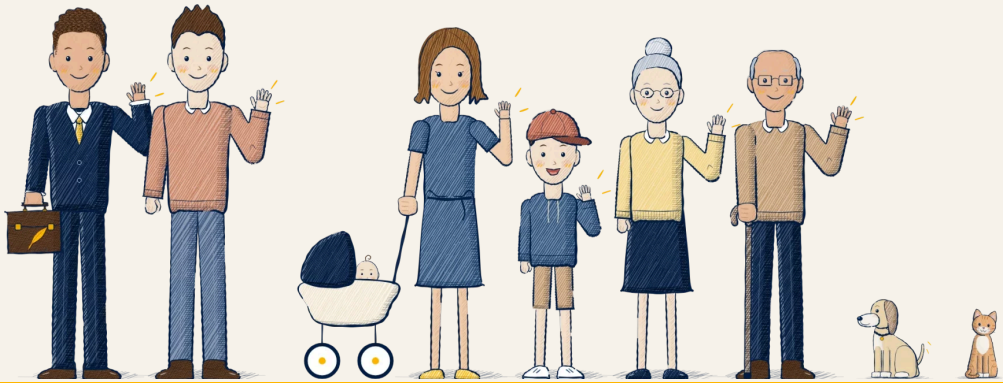
We are always happy to talk it through. If this is something you would like to explore, here is how it works.

1. **We check your Title Register**
   We look at your HM Land Registry entry to confirm how you own your home.
2. **You check with your lender**
   If there is a mortgage, you confirm your lender is happy with the change.
3. **We prepare everything, you sign**
   The Notice of Severance and Form SEV, with the Life Interest Trust in your Wills, over your share of the home or your wider estate.
4. **We send it to HM Land Registry**
   We submit Form SEV and confirm once your register is updated.

LET'S HAVE A CHAT

01865 507174

Your initial chat is free, online or over the phone, with no obligation. Email **info@adewills.co.uk** or book a free 15-minute call at **calendly.com/ade-wills/15min**.



A.D.E Wills

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Email
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Visit
46 Woodstock Road, Oxford, OX2 6HT
(by appointment)

Opening hours
Monday to Saturday, 8am to 6pm

Your Will is written by a full member of the Society of Will Writers, working to their Code of Practice and holding full professional indemnity insurance. We are professional Will writers, not solicitors or financial advisers. This guide is general information about the law in England and Wales as at November 2026. It is not personal legal or financial advice and does not create a client relationship. Whether a Life Interest Trust or severance is right for you is what an appointment is for. The law can change, and our fees are always confirmed in writing before you instruct us.