

Buying your first property in Jersey with your partner - things to consider

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Housing qualifications

An unmarried couple, both with housing qualifications, can buy property in joint names and have the security of jointly owning their home.

For unmarried couples, where only one has housing qualifications, the position is more difficult. For freehold property, only the qualified partner can own, with the unqualified partner not having the comfort of having title in their name. It is therefore important that couples in this situation enter into an "equity agreement" to protect the unqualified partner's position so far as legally possible. The agreement will provide that if the couple separate, the unqualified partner should be repaid their contribution towards the purchase, and should share in the balance of the sale proceeds after mortgage and other deductions.

Additionally, the qualified partner should always sign a properly drawn up Will leaving the property to the unqualified partner.

In the case of share transfer properties, the law does not prevent unqualified individuals buying shares in property owning companies and therefore ownership can be shared from the outset, however the unqualified individual would have no right of occupation.

Ownership structure

Couples buying a property together often make different contributions. Perhaps one has the entire deposit to put down, or each contributes a different amount towards joint mortgage repayments. In such circumstances careful thought should be given as to how to structure the ownership of the property and whether it would be a sensible precaution to draw up an equity or cohabitee agreement.

Freehold and flying freehold properties are often bought jointly and for the survivor of the parties, so that if one party dies the property will automatically go to the survivor. An alternative, which is less used, is that the couple buy the property as tenants in common. This enables each to own a fractional share in the property, which can be left to third parties in the event of death, and does not automatically vest in the survivor. This may be most appropriate where one or both have children from a previous relationship and they wish to ensure those children inherit their interest in the property. In such circumstances, careful consideration needs to be given as to what would happen to the survivor of the couple.

First time buyer status

In order to benefit from first time buyer status in Jersey you must have both (1) permanent Entitled status (or be buying jointly with an Entitled spouse or civil partner) and (2) have never previously owned property. Ownership of property anywhere in the world will mean you are not eligible for the concessionary rates for stamp duty on freehold property or land transaction tax on share transfer property.

"Ownership" of property includes any joint ownership, inheritance, share transfer ownership, benefit of a contract lease and any arrangement where the property was held by a nominee or trustee for your benefit.

Unfortunately you cannot benefit from your first time buyer status if you are purchasing jointly with a partner who is not a first time buyer, nor can you qualify if you have Licensed status ("essential employees") regardless of whether or not you have previously owned property.

Assuming the property value is less than £450,000, first time buyers are entitled to significant concessionary stamp duty rates on both the purchase price and on any associated loan. Calculators are available at www.ogierproperty.com/jersey/calculators to give an indication of the amounts.

For advice on all aspects of Jersey property law, contact the Ogier property team at +44 1534 514056, email info@ogierproperty.com or visit our website at www.ogierproperty.com/jersey.

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