



KUMARI HART
SOLICITORS

Guide to Declaration of Trust

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WHAT IS A DECLARATION OF TRUST?

Sometimes called a **Deed of Trust**, it is a legally binding document with records the financial agreement between the parties who own or have a financial interest in an asset, usually property.

WHEN SHOULD YOU GET A DECLARATION OF TRUST?

It is always sensible to get this done, when you buy a property with someone else, or if someone has contributed towards the cost of purchasing it and it was not intended as a gift. This should really be done at the outset but can be done during ownership.

It is becoming harder for younger people to get onto the property ladder, without the bank of mum and dad. It is therefore getting more common for a declaration of trust to be prepared in such circumstances, which would set out their financial interest in the property should a dispute arise later.

If the parties intend to hold the property as tenants in common (where each party has a specific share), it is even more important to reference the percentage share in the Declaration of Trust.



WHAT DOES A DECLARATION OF TRUST INCLUDE?

It is usually quite a straight-forward document setting out the following:

- Names and addresses.
- How much each person has contributed and how much will need to be paid back.
- The percentage split that each person will get when the property is sold.
- The amount each person will pay towards the mortgage and how it will be paid off.

The agreement may also deal with things such as:

- What happens where just one of the co-owners wants to sell.
- Who will be responsible for maintenance of the property.



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CAN THERE BE AN ORAL DECLARATION OF TRUST?

No. The law is very clear on this. Section 53(1)(b), Law of Property Act states that a declaration of trust over land, or any interest in it, must be evidenced in writing.

HOW DO I REGISTER AN INTEREST SO THAT OTHER PEOPLE KNOW ABOUT IT?

A declaration of Trust cannot be registered, however, third parties can be notified of the existence of a trust by registering a restriction on the register in the case of registered property.

In the case of unregistered property, this is done by endorsing a memorandum of the declaration on the conveyance or lease of the property. Lawyers will do this for you.

ARE THERE ANY TAXATION ISSUES?

Tenants in common are usually treated separately for tax purposes. As a result, each individual will pay their own tax. With regards to income tax and capital gains tax, any profits and losses arising from the property are treated as accruing directly to the relevant co-owners according to their beneficial shares in the property.

To find out more on how we can help you with a declaration of trust, please contact us now on 02477 981 545 or email at enquiries@kumarihart.co.uk.

We are open from 8am – 8pm and at weekends from 9am -midday.

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