

Joint Ownership of Commercial Property

Company Ownership

If you are proposing to own the property or the lease in the name of your existing company, consider:

- Does your shareholders agreement need amendment to take into account the acquisition of the property?
- Will the business at the property be run separately from the company?

Partnership Ownership

If you run your business as a partnership consider the following:

- Does your partnership agreement need updating or amending to take into account the acquisition of the property?
- Which named individuals will be the owners of the property and on what basis?
- Ownership by one or more partners in their individual names will invoke the same rules as for individual or joint ownership outlined below.

Joint Ownership

There are two forms of joint ownership of land called "joint tenancy" and "tenancy in common". These terms refer to the type of joint ownership and do not mean that any sort of tenancy or lease is involved.

Joint tenancy

If a property is owned by joint tenants then on the death of any co-owner the property will be owned automatically by the survivors and this can override any Will the deceased owner may have made

If a property is owned as joint tenants there is a presumption that the property is owned equally by the various parties. If parties provide capital sums towards the purchase in sums which are not equal, it would not be appropriate for the parties to own as joint tenants.

Tenancy in common

The essential feature of a tenancy in common ownership is that on the death of any co-owner, his or her share passes by his or her Will and can be bequeathed either to their beneficiaries or the other tenants in common. In the circumstances, it is sensible to draw up a separate document outlining the different shares of the various parties. This is called a Declaration of Trust.

How Warners can help You?

Please consider your options and let us know in what form you wish to hold the property. We need to know at an early stage so that we can prepare the property transfer and any associated documents in the appropriate form.

Please let us know if you would like separate advice in relation to any shareholders or partnership agreement which may need amending or updating.