



Myerson

Real Estate Litigation

Our guide to
TOLATA property disputes

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Welcome

At Myerson, our Real Estate Litigation solicitors are experts in advising on all aspects of property disputes. We understand the complications surrounding property ownerships and we act as trusted advisers to our clients, aiming to resolve their matter sensitively and with a positive outcome.

Why Myerson?

Our specialist, dedicated team of property dispute solicitors have in-depth knowledge and a wealth of expertise in both bringing and defending complex TOLATA matters.

As a firm, we are proud to be ranked as **'Top Tier'** in the prestigious international directory **The Legal 500**, and commended by The Times **'Best Law Firms 2019'**. Our Real Estate Group are proud to have won the prestigious **Manchester Legal Awards 2021** 'Property Team of the Year'. This means you can be certain that you will be receiving the highest quality legal advice and that we can advise you on complex real estate litigation issues.

You can find out more about our Real Estate Litigation Team by clicking [here](#).

How We Work.

Every client and case is different, and we are here to support you every step of the way.

Personal Partner-Led Service. Our experienced solicitors get to know you and your matter inside out, so we can best advise you. We know that dealing with litigation can be stressful and we aim to take that stress away from you. We strive to become your trusted adviser, providing value and most of all a genuine, personal service.

The Highest Level Of Expertise. Combining commerciality, practicality and legal expertise enables us to deal with real estate litigation matters in the most effective way.

A Team You Can Trust. We help clients nationwide with complex TOLATA cases, acting for businesses who need help resolving real estate litigation matters. You can rest assured that our expert team knows its stuff!

Your Solicitors



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The solicitors that will be working with you are specialists.

All of the solicitors in our real estate litigation team are specialists and have a detailed understanding of real estate law and procedures.

Your matter will be handled discreetly and efficiently, overseen by Seán Hackett and Laura Pile, Partners in our Real Estate Litigation Department.

Your team of solicitors will provide practical advice and work with you in order to deal with your real estate litigation matters in the best way possible. This means you can concentrate on what's important, running your business.

You can find out more about our Real Estate Litigation Team by clicking [here](#).

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TOLATA

Joint ownership of property

Joint ownership between unmarried couples, friends, parents, and siblings is increasing. Whether this is due to help getting onto the property ladder, inheriting a property under a will or another reason, jointly owned properties come with the potential for a difficult and upsetting ownership dispute in future years.

The most common situation can be seen between unmarried couples. Contrary to popular belief, in England and Wales, there is no such thing as a “common law spouse”. When cohabiting couples separate, the rules for dealing with the property are the same as owners who are not in a relationship and jointly own property unless you have children together.

Cohabiting couple’s property ownership disputes

How do disputes arise?

Many disputes over jointly owned property arise when a relationship breaks down and the owners disagree on whether the property should be sold, or what proportion of the equity each of them should receive when the property is sold, or ownership transferred.

What can I do?

An express trust would outline who held the legal title to the property, and who held beneficial interests in the home and in what shares.

There can also be implied trusts, which can arise in cases where the property is registered in the names of both parties, but there has been no declaration of the extent of the beneficial interests or where the legal title is registered in the name of one party only, and the other wants to establish that they have a beneficial interest in the property.

If you own a property with someone else and cannot agree on either the sale of the property or the splitting of equity, it is possible to apply to the Court to resolve the situation.

Applications are made to the Court under the Trusts of Land and Appointment of Trustees Act 1996 (TOLATA). The Court has wide-ranging powers under TOLATA and can make an order that the property be sold and/or how the equity should be split.

Is there an express declaration of the size of the beneficial interests?

If there is an express provision in the transfer document or a declaration of trust, the parties will be bound by those terms unless they can establish:

- that the declaration was invalid or incorrect;
- there has been fraud, mistake or undue influence; or
- that there has been a subsequent variation.

This may be difficult to establish, but in some cases possible.

One of the joint owners moved out of the property and stopped paying the mortgage. Are you entitled to a greater share?

Paying the mortgage or other household expenditure does not entitle you to a greater share of the equity.

You may be entitled to compensation for the money spent by way of 'equitable accounting'. This allows the Court to make adjustments to the money received by each party, even where shares are fixed.

Included in equitable accounting can be payments towards the mortgage or in some cases improvements to the property, or an obligation on one party in occupation to pay occupation rent to the other party post separation.

If you have excluded your ex-partner from the property, then they may be entitled to ask you to pay a rent for occupying the property and may insist on conditions for your continued occupation of the property.

What if partners are splitting up and one party is refusing to sell the property that is owned jointly?

In these circumstances, an application can be made to the Court to order a sale of the property and for a determination as to how the proceeds of the sale are to be divided.

What if you have separated from your ex-partner who you lived with for years in a property in their sole name. Are you entitled to anything?


It is possible for a person who is not the legal owner of a property, but has made certain types of contribution towards it, to acquire financial interest in it. This is potentially a complicated situation, which would turn on the facts of each case.

What if my ex-partner and I have children together, does that mean I am entitled to more of the property?

In these circumstances, you may have extensive financial claims pursuant to Schedule 1 of the Children Act 1989. These claims can include a housing claim, lump sum claim, a claim for maintenance over and above the Child Maintenance Service payments and an order to pay your legal fees.

Housing claims are normally restricted to providing accommodation for you and your children whilst the children are under the age of 18 years or remain in full time tertiary education.





Don't just take our word for it...

"Thank you once again for your work on our matter, the service we've received from Myerson has been second to none".

"The team at Myerson Solicitors is timely and very responsive".

"Thank you very much for all your efforts, the professional and efficient management of the case and the shrewd counselling we received from you in this matter".

"The team at Myerson are client-friendly and clear and incisive thinkers".

"Thank you for all your help and support in successfully resolving my case, which would not have been achieved without your assistance".

"The team at Myerson are excellent at every level with tremendous strength in depth".

"The members of the team are all exceptional – proactive, excellent communicators, engaging and consistently highly effective".

"The team are exceptional, dynamic and creative litigators with excellent communication skills, tenacity and a proven track record of success in the most complex and challenging of cases".

"The team are commercially astute, incisive, positive and assured".

"All levels of the team reflect the same high level of knowledge and expertise allowing no weak links in the chain, which in turn ensures that best interests are safeguarded".

To view more Myerson reviews visit our Review Solicitors page by [clicking here](#).

You're in safe hands!

If you would like further information about how we can help you with TOLATA disputes, or if you have any questions, please do not hesitate to contact a member of our team today.

Call: 0161 941 4000

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 SCAN ME



Because
life is rarely
**black and
white.**



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