



# /guide



## Your questions answered

### A GUIDE TO HOME RIGHTS NOTICE

**T**his client guide will give an overview of Home Rights Notices, what they are and what circumstances they can be used in.

#### Staying in your partner's property during divorce

Commonly the family home is the most valuable asset in divorce and civil partnership dissolutions. However, marital homes are not always held jointly in both partner's names.

There can be many reasons why the shared home is legally owned by just one partner. Common scenarios include the home belonging to one partner before the marriage, or that only one partner was able to get a mortgage at the time of purchase.

#### What is a Home Rights Notice?

In England and Wales, a Home Rights Notice (formerly known as a matrimonial homes notice) is a protective measure for individuals who don't own a property but have rights to occupy it. They are typically used when people continue to live in their partner's property during divorce or civil partnership dissolution.

#### How does a Home Rights Notice work?

By submitting a Home Rights Notice to the Land Registry, the non-owning partner can protect their right to live in the matrimonial or civil partnership home and prevent the sale of the property until matters are resolved and the notice is lifted.

Essentially, a Home Rights Notice provides a safeguard to ensure that the interests of non-owning partners are acknowledged and respected during any potential property transactions.

Whilst entering a Home Rights Notice does not change the legal ownership of the property, it provides the non-owner with two vital elements of protection:

1. The right to occupy the house; and
2. Protection from the owner-spouse selling or transferring the house or raising a new mortgage against the home.

## Why you might consider one

After a married couple separates, the non-property-owning partner can still live in the family home until financial matters are settled. However, there's a risk that the property owner may decide to sell the house without their consent.

This could leave the non-owner partner homeless and complicate financial proceedings, as all proceeds would go to the property owner. In such cases, urgent applications to freeze the sale proceeds would need to be considered to prevent further complications.

It is important to protect assets whilst parties work at reaching a divorce financial agreement or resolution. A Home Rights Notice ensures this by appearing to any interested parties who carry out a Land Registry search against the property, such as prospective owners or mortgage-lenders who would be notified that there is someone who has matrimonial home rights against the property.

## How do I get a Home Rights Notice?

If you're living in a property that isn't in your name and you're going through a divorce, it's important to contact a solicitor to place a Home Rights Notice on the property.

The process is simple: you apply to HM Land Registry by completing a Form HR1. If you're legally married to the property owner and intend to use the property as your home, the application should be granted.

Once the Home Rights Notice is in place, it prevents the sale of the home without your knowledge. This can enable you, as the non-property-owning partner, to continue living in the home for the duration of the marriage.

## How much does it cost to get Home Rights Notice?

There is no fee to register for a Home Rights Notice with HM Land Registry.

## How long do Home Rights Notices last?

The Home Rights Notice typically lasts as long as a legally married partner retains rights to the home.

These rights stem from marriage and end through divorce, the death of the other spouse, a court order, or a voluntary agreement.

Once the Final Order is granted and the marriage or civil partnership dissolution has legally ended, the Home Rights Notice ceases to exist.

It's important to inform HM Land Registry of the divorce for the notice to be removed.

## Do I need the homeowners consent to apply for a Home Rights Notice?

You don't need the consent of the owner-spouse to apply for a Home Rights Order, however they will be informed in writing by HM Land Registry.

## Are all homes treated the same?

It is important to be aware that not every property will be classed as a matrimonial home.

The Family Law Act 1996 requires that the home has been occupied jointly as a matrimonial home during the marriage or civil partnership, or was intended to be occupied as such (so this form of protection is not available for a rental property). Also, these provisions apply only to married parties and civil partners, but not to cohabitants.

## Can my ex block a Home Rights Order?

Where a spouse has a right to occupy, there are limited circumstances where the non-owner could be excluded from the family home by the owner-spouse, such as by way of an occupation order or final financial order.

## HM Land Registry's free Property Alert service

Finally, HM Land Registry offers a free Property Alert service which allows a non-owner spouse to monitor up to 10 properties. HM Land Registry will send an email alert each time there is significant activity on the monitored property, for example a mortgage being charged against the property.

Whilst this should not be used instead of a Home Rights Notice, it can provide a helpful tool to "tip off" an interested person to activity relating to a property which could be detrimental to them and applies to all properties, not just to the marital home.

## Useful links

[HM Land Registry](#)

[Form HR1](#)

[HM Land Registry's Property Alert service](#)

[What happens to the family home in divorce?](#)

## Need more information?

Call our Client Care Team on **0330 838 7456** to speak with one of our specialist family lawyers or visit [\*\*www.stowefamilylaw.co.uk\*\*](http://www.stowefamilylaw.co.uk)

