



Occupiers Waiver Form

AMANDA TAYLOR, TEACHING FELLOW, EQUITY AND TRUSTS

TRANSCRIPT

Hello everyone, my name is Amanda Taylor

Firstly let me assure you I am not on a desert island somewhere – it's a poster behind me!

Today I'm going to give you a thought on a possible problem when you want to move to a new house, and you have an adult child living with you. I'm sure that generally most parents are happy to help their children, whatever their age, to get along in life. So why should I be talking to you today about this subject in your Equity and Trust space?

To be fair it could easily be a problem discussed in your Land Law module as well...

You will, perhaps, have already studied about the trust of the family home. This is a particular section of trusts which is emotive and difficult for the courts and parties alike. There is no set formula for division of a home when the couple separate, although there have been many cases trying to set out 'the rules'.

All circumstances surrounding the purchase and life in the home can be considered. It has been usual, in the past, only to mention children when specifying who has taken care of them whilst they were young.

This topic is about the obvious, but so far almost forgotten, rights of adult children. The Occupiers Waiver Form is something which now must be signed, if the mortgage company so requires it, by the "child", or any other adult living on a permanent basis in the home, when the parents, or just owners, decide to sell the home. This is because that 'other' person may well have accrued rights of occupation which, possibly, could take precedence over the mortgage company's rights.

When pointed out it seems obvious as any adult living and relying on living in the property may well have a degree of legal right of occupation.

The mortgage company recognises that those rights may be superior to their claim and so are cautious to protect their investment.

The adult 'child', or other adult, must take care to take legal advice before signing because it is possible, they may well be signing away their rights when those rights have been previously fully acknowledged by all parties.