



# Funding the purchase of a property with the help of a gift or loan

If you are giving or lending money to help a family member or friend buy a property, you may want to ensure that your gift or loan is protected from any future claims by a third party.

If the property being purchased is to be owned jointly with a spouse or partner, or if a spouse or partner moves in, the money you have provided may end up in the recipient's spouse's/partner's hands, rather than the recipient's if their relationship ends and protective measures aren't taken.

With careful consideration and planning at the outset, this need not happen. Taking steps to protect your position means that if the worst should happen, you will have the peace of mind that what you have gifted or lent is protected.

## Warnings

- Loans should be evidenced in writing and ideally registered as charge against the property, otherwise they could be regarded as being 'soft' and unlikely to be repaid.
- Making gifts or loans may have inheritance tax consequences.
- In the event of a dispute, it can be extremely difficult to go behind the title to the property, so any agreement has to be in writing.
- It is important that any joint property is registered in a way so as to reflect your wishes, particularly if any unequal contributions are to be recognised and any gifts/loans are to be protected.
- If you are purchasing a property which will be a home for another, even if they are not contributing to the purchase and it is not intended that they have an interest in the property, it is important that this intention is properly recorded.
- Litigation is costly, time consuming, stressful, and the outcome uncertain.
- The legal position will change significantly if the recipient is married or in a civil partnership. Children can also affect a claim.

# Funding the purchase of a property with the help of a gift or loan

Our Family Department has the skill and expertise to draft bespoke agreements for those that are married or in a civil partnership, not married, and those that are anticipating marriage or civil partnership, to protect any gifts and to ensure that any loan is recognised. Agreements that are badly drafted without legal knowledge can often be worse than having no agreement at all. Engaging a professional in these circumstances is a must and should avoid potential significant financial loss.

Our solicitors will assess your needs and recommend which agreement is suitable for you. They will explain what is required and draft a bespoke agreement to meet your needs.

If you are purchasing a property jointly or intended as a home with another, and some of the money for the purchase is being advanced by way of a gift or loan, ask to speak to a solicitor in our Family Department to see how we can help to ensure that your position is adequately protected. Alternatively contact the department directly on 020 7631 4141 or at [family@bishopandsewell.co.uk](mailto:family@bishopandsewell.co.uk)

### Consider

- Documenting any gift or loan and registering a loan as a charge
- Having a deed of trust and/or a cohabitation agreement to record the position.
- Making a will.
- For those that are married or in a civil partnership (or intend to be), having a pre or post nuptial agreement.

**Bishop  
& Sewell**

**Monro Wright  
& Wasbrough**

"Bishop & Sewell has exceeded my expectations - I absolutely recommend this firm."

**Beautifully  
straightforward  
legal advice**

Bishop & Sewell LLP Solicitors  
56-60 Russell Square  
London  
WC1B 4HP

+44 (0)20 7631 4141  
[family@bishopandsewell.co.uk](mailto:family@bishopandsewell.co.uk)  
[bishopandsewell.co.uk](http://bishopandsewell.co.uk)

Disclaimer: We hope you have found this article useful however it is general in nature and for information purposes only. It is not a substitute for legal advice. Therefore Bishop & Sewell LLP accepts no responsibility whatsoever for any loss howsoever arising in connection with any use of the contents of this article. If you require specific advice, please contact us. Bishop & Sewell LLP is a limited liability partnership registered in England and Wales (No. OC319691) whose registered office is at 59-60 Russell Square, London WC1B 4HP. Registered as a firm of solicitors and advocates regulated by the Solicitors Regulation Authority in England and Wales.