Mum, Dad, will you help me with my deposit please?

Buying your first property can be an exciting time, but it is also a huge investment. Most buyers will have saved hard for years on end just to fund their deposit. However, rising demand and higher property prices, particularly in the capital are making it increasingly difficult for first time buyers to save enough money to take that first step. All indications point to a worsening picture during the next 12 months, despite recent government moves to help first-time buyers, as outlined in the recent Comprehensive Spending Review.

Foreign investors in UK properties in 2016 (where cash buyers from the Far East and Asia have been particularly active in areas such as London and Manchester) see British property as a safe-haven for investment are likely to continue to push prices higher making it even more difficult for first time buyers.

The property team at Gedye & Sons predicts that 2016 will see record number of family-funded house moves as buyers continue to rely on financial help from their loved ones to progress onto the housing ladder. National data taken from the English Housing Survey[1] for the past six years has revealed that the percentage of people financing property moves with help from family and friends has risen slowly but steadily every year since the peak of the UK financial crisis in 2008.

In 2008-09, when questioned on the source of finance for the purchase of their current property , 5.3 per cent of respondents answered “a gift or loan from family or a friend”. By 2014 this percentage had climbed, reaching 7 per cent.

Despite the uptake of the various Help to Buy[2] options there is every reason to believe this percentage will continue to rise as a result of the increasingly high demand for property, at a time when prices are already higher than ever before.

Should I borrow from my family?

It is important for buyers and those providing any financial assistance to ensure adequate legal measures have been taken from the outset. The crucial question is, are the funds a gift or a loan?

The most common scenario, and the one accepted by mortgage lenders, is that the funds are to be ‘gifted’ by the family member rather than the funds being given by way of a loan, (which lenders will see as a debt which will impact on the ‘affordability’ of the buyer and may subsequently impact on the amount of money a lender is willing to lend). Some lenders may still require a declaration to be signed by the parents confirming that the money is indeed a gift, and they will not seek to claim any right in the property in the future.

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[1] https://www.gov.uk/government/collections/english-housing-survey
[2] https://www.helptobuy.gov.uk/

If any money which forms part of your deposit is a loan, this should be specified at the start and you should make your Solicitor, mortgage broker and lender aware. Where a loan has been made an agreement can be drafted to safeguard the funds so no confusion arises in the future as to whom is entitled to those funds - particularly if the buyer is cohabiting with an unmarried partner who could become entitled to a share in the property if they contribute to the mortgage repayments.

<u>What are the risks?</u>

There are several things the parties must take into consideration. Firstly, in the case of an outright gift by the parent(s) to the child, if the parent dies within seven years of handing over the money the child may have to pay inheritance tax on the gift. Likewise, the parent may have to pay capital gains tax if the money is lent with interest and the value of the property increases.

If a parent is lending rather than gifting money, it is vital to establish that in a formal legal document to prevent confusion and distress should circumstances change. Problems can arise if a parent dies and the surviving spouse needs the money back to live on or to pass to other children to meet the terms of the deceased parent's will, or should the marriage or relationship of the child break down.

The intent document doesn't have to be complicated. It can be a very clear and simple statement, so long as it is signed by all the parties. The document should contain details of the basis on which the loan has been made; what will happen to the money should one of the parties die, or the child and spouse or partner split up, or if the parent needs the money back.

The situation is simpler if a parent is lending to a single child but, it still needs documenting because circumstances may change and disagreements can occur.

Likewise, people who are marrying should do the same if they are entering the relationship with disproportionate amounts of money. Arguments often materialise over who owns what proportion of a property where for example one partner may have been paying the mortgage and the other all of the household bills. These cases can be sorted out in court but at great time and expense to those involved.

<u>How can Gedye & Sons help?</u>

Gedye & Sons have a wealth of experience in all such property related transactions and our Solicitors are on hand to offer advice on the drafting of agreements, the setting up of trusts to deal with your property purchase. With offices in London and the Lake District we offer geographical coverage and can meet you at either of our offices, or at your home.

We aim to work paperless and work using the most up-to-date case management system. We will correspond with you using email, unless you express a wish otherwise. For more information please contact either Jonathan Pryke on 015395 32313 jonathan@gedye.co.uk or Nick Davis on 020 3427 5081 nick@gedye.co.uk.