

## Gifted Deposit

At GBLF we are regularly contacted by couples and parents who are providing gifts of money to help with deposits. In this case study we are looking at how the complicated issue of protecting a deposit can be dealt with.

### Georgia and Ross - Case Study

Georgia and Ross decided that they would like to buy their first home together. Both agreed to save an amount of £500.00 per month so that they had a joint deposit available. After 12 months they had saved an amount of £12,000, so they decided at that point to find their dream home.

The property Georgia and Ross fell in love with was unfortunately much higher than their original budget. The couple discussed the issue with their parents and Georgia's mother Emma offered to provide £10,000.00 make up the shortfall. Emma had just drawn down a lump sum from her pension and the money was sitting in her bank account.

Emma got on really well with Ross but didn't feel comfortable having no protection for her money in the event that the couple split up. Georgia came to GBLF for help and she was worried that this issue might stop the purchase going ahead if a solution couldn't be found. GBLF explained that it was likely that the couple's mortgage lender wouldn't be comfortable with Emma loaning the money officially to the couple or creating a mortgage to protect it, as far as the mortgage lender would be concerned the monies would have to be regarded as an outright gift.

#### **An Outright Gift**

Emma was a little bit worried about the money being regarded as an outright gift to the couple, whilst she knew she did not want the monies to be returned, she wanted to ensure that in the event of Ross and Georgia separated that the £10,000 would be paid to Georgia and not split equally between the couple.

GBLF first advised Georgia and Ross to consider holding the Property as Tenants in common in unequal shares. This suggestion meant that the couple would jointly own the Property however each could own a distinctly different share.



## A Declaration of Trust

GBLF then prepared a legal document for Georgia and Ross called a Declaration of Trust. A Declaration of Trust enables the owners of a property to describe what they want to happen in the event of a sale and dictate who is entitled to the sale proceeds and in what shares.

In this case the couple were able to document that on a sale of the property, the mortgage would be paid off, then Georgia would receive the £10,000.00 back which had provided by her mother with the remainder of any sale proceeds being split equally between the couple. All of the parties were delighted with this outcome as they felt it was the fairest method of ensuring everyone was protected.

Having been in the property only a short while the Georgia and Ross' relationship came in to difficulties and eventually they decided to separate.

The property was eventually sold and Emma's deposit was successfully returned to Georgia before the remaining sales proceeds were split, in accordance with the Declaration of Trust.

Had the Declaration of Trust not been in place and the couple had held the property as Joint Tenants, then Emma's money may have ultimately been split between Georgia and Ross. Emma's only recourse in those circumstances would have been an expensive trip to court.

**We help clients regularly with declarations of trust, please call us on 0191 388 1778 if you would some help or advice.**