

# BNO guide to Protecting Family Wealth

**This guide is intended for people from Hong Kong settling in the UK via the British National (Overseas)(BNO) visa. Geldards is one of the UK's leading full-service law firms, with experience of helping individuals in the UK and internationally. Our experienced professionals can help guide you through your relocation to the UK and provide advice and support to help you start your new life.**

**If you are considering passing your wealth onto your dependents, we can help you to protect your assets and pass on your wealth in the right way, so that future generations will benefit**

## **The 'Bank of Mum and Dad'**

In 2019, the average parental contribution for UK home buyers was £24,100, according to Legal & General. Collectively parents have given £6.3bn to their children to enable them to purchase a home. This means that "the bank of mum and dad" ranks in the top ten mortgage lenders in the UK.

Parents, or grandparents, often use their savings, cash, equity release from their own homes or even their pension pots to help their children financially. However, if you are planning on helping your children financially or your parents are helping you, it is important you are aware of the legal and tax implications of doing so.

Worryingly almost half (44%) of parents or grandparents who gift money to their children did not take any advice before gifting the money\*.

\* August 2019, Legal & General Assurance Society Limited

## **If a relationship fails, what happens to the gift?**

As a starting point, money that is gifted is likely to be considered "matrimonial" property. This means that if your child divorces, the gift may be shared with their partner. Their partner may even get more than half if their needs warrant it.

It is possible that the gift may be "ringfenced". However, if the money has been "mingled" (e.g. used to purchase the family home in joint names) it is more than likely to be shared.

## **Is the money protected if my child is not married but cohabiting?**

No. A Cohabitation Agreement setting out how the money can be dealt with in the event of separation can avoid parents being drawn into Court proceedings.

## **How Can Parents Protect Their Money?**

There are a number of options;

- Ensure there is a Pre or Post Nuptial Agreement;
- Purchasing the property as a co-owner with their children;
- Registering their interest on the title deeds of the property;
- Put the gift in a Trust;
- Give the money as a loan rather than a gift.

A loan agreement must be properly drawn up. Don't rely on an oral agreement. A written record may not be enough unless it covers certain formalities.

Pre and Post nuptial Agreements, Cohabitation Agreements and Trusts are commonly used to "ringfence" assets and keep them out of divorce proceedings.

A Declaration of Trust can be drawn up by lawyers to record the contributions each party has made to the purchase of a property.

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## **What happens if the gift has already been made?**

It is not necessarily too late to act - it may still be possible to “ringfence” the monies.

A Post Nuptial agreement could be drawn up when a couple are already married. However, it will be difficult to ringfence money after your child has separated.

## **What should I do next?**

If you are considering supporting your children/grandchildren, other family members or your parents are supporting you, very careful consideration should always be given as to how that money is protected against the possibility of relationship break down and you should seek legal advice from a specialist family lawyer.

If you require any assistance, guidance or advice, please contact the **Geldards BN(O) team**.

## **Language Notification**

We can only deliver our advice and services to you in English. By instructing us to act for you in this matter, you accept that it is your responsibility to arrange for correspondence and documents sent to you to be translated so that you understand them and to have translated into English any correspondence you send to us. We will act upon your instructions based upon the English translation.

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