

THE BANK OF MUM AND DAD

Parents often ask how they might protect monetary gifts to their children which might be used, for instance, to purchase a house



OUR SERVICES



FAMILY SETTLEMENT TRUST

Create a **Family Settlement Trust** after taking advice from a specialist tax adviser to protect wealth for future generations. Provide for a wide group of discretionary beneficiaries and do not provide an automatic entitlement to capital or income. Create the Trust many years before your child is contemplating marriage, as the Family Court has a wide discretion to vary trust made in contemplation of marriage. An effective way of providing for your children is to provide a loan from the Trust which could be used as a deposit for the purchase of a house for the child. The loan is repayable upon demand or in the event that the loan repayments are not made. The Trust could then advance income to the discretionary beneficiary (your child) to meet the loan/ mortgage repayments.



NUPTIAL AGREEMENTS

If your child is getting married within 12 months' time, use a **Nuptial Agreement** to protect wealth accumulated prior to marriage. Prenuptial agreements are frequently upheld as valid by Family Courts provided certain criteria are met. Full financial disclosure needs to be exchanged; both parties need to be separately legally represented, the terms need to be fair and reasonable, there should be no issues of unfair pressure or duress or fraud at play, and the agreement needs to be signed at least 4 weeks ahead of the wedding day. Nuptial agreements take time to negotiate and advise on, so please plan ahead of time.



DECLARATION OF TRUST

If your child is purchasing a property with their partner, ensure they protect your gift by purchasing the property in joint names as **tenants in common with a Declaration of Trust** which will determine how the equity will be divided on sale or transfer of the property. The Declaration of Trust can also deal with what happens to the contents, and gifts made to the couple.



COHABITATION AGREEMENTS

If your child is living with someone or about to cohabit, and the property is purchased in your child's sole name, use a **Cohabitation Agreement together with a Licence to Occupy** to limit claims to a share in the property by virtue of paying towards bills and household expenses.



LOAN AGREEMENTS

It may be the case that loans are required, perhaps during the course of litigation, to fund either lifestyle or legal costs. In these circumstances, attention must be paid to formalising any loan agreement. This is because the family court is likely to treat familial loans as soft loans – i.e. that repayment is not required. Our team is able to **draft loan agreements** which can help formalise this liability – though there remains a risk that they are considered soft loans. The best way to mitigate this is through a commercial loan, either from a commercial lender or a specialist litigation funder.

