



Transferring property into joint names with your spouse

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A common situation to arise is when a property owner wishes to transfer their property from their sole name into joint names with their spouse, as a gift.

If, say, a husband owned the family home and wanted to put it into joint names with his wife, then there would be a number of matters to consider before doing so.

Firstly, the tax position should be reviewed, to ensure that there are no negative tax consequences to the transfer of property.

If there is a mortgage on the property then the lender will need to consent in writing to any transfer, and it is necessary to apply to your bank before any transfer can be made.

The lender may also require a declaration of solvency to be sworn by the person giving the share of their property. This is because if the person transferring a share in their property goes bankrupt within five years of the date of the transfer, then their trustee in bankruptcy may be able to challenge the gift, and undo the transfer.

In addition, if there is a mortgage on the property then there may be Stamp Duty Land Tax to pay on the transfer, which is something that can come as a surprise to people. This is the case even if no money is being paid for the share of the property by the spouse. The reason the tax may be due is that the Inland Revenue believe that the person transferring the property obtains the benefit of someone else taking on shared responsibility for the mortgage debt.

As with any transfer of property into joint names, the couple will need to decide how they wish to hold the property, i.e. as joint tenants or as tenants in common. They will also need to decide as to whether they will hold the property in equal shares or in some other proportion.

Once the above matters have been resolved, a transfer of property into joint names can usually be completed very quickly.

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If you require advice on this matter please contact our Conveyancing Department on 01553 778900 or email law@hayes-storr.com