



Have you lent your children money?

Ashley Bidmead, senior associate at Viberts, explains why clarity today can prevent family disputes tomorrow

FOR many families, helping children financially is simply part of life. Whether it's a contribution towards a first home, help through a difficult patch or support with a major purchase, the "Bank of Mum and Dad" plays an increasingly important role – especially in Jersey, where stepping onto the property ladder is becoming ever more challenging.

But as common as these arrangements are, they can also be a major source of confusion and conflict later on. As probate lawyers, we frequently see disagreements arise over money that parents have advanced to their children. These disputes can be painful, divisive and, in the worst cases, capable of damaging relationships for years.

Most parents trust that their children will "sort things out fairly" after their death. Unfortunately, that isn't always what happens. The good news is that with early planning and a few simple steps, you can dramatically reduce the risk of family friction in the future.

LOAN OR GIFT? THE CRUCIAL QUESTION

When money or assets are passed from parent to child, the first and often most contentious question is this: was it a loan, or was it a gift?

The answer matters:

- Loans are generally treated as assets of the parent's estate and may need to be repaid after their death.
- Gifts do not require repayment (although in Jersey, gifts to heirs have their own legal complexities).

Problems often arise when the parent's wishes weren't recorded, leaving surviving family members to interpret informal arrangements made years earlier. Motivations

behind disputes are not always financial gain. Often, children simply want to ensure that their parent's intentions are respected. But without clear evidence, different people may hold very different views of what the parent would have wanted.

The simplest solution? Write it down.

A short letter or document, kept with your will, confirming whether money was given as a loan or a gift can be invaluable. Having the document witnessed is even better, as it helps confirm that the gift or loan was made freely and with full capacity.

WHEN IT WAS A LOAN

For money to be classed as a loan under Jersey law, there must be evidence that both parties intended to enter a legal agreement. If that intention isn't clear, the law may assume the funds were given as a gift – especially within families.

Even when everyone agrees the money was a loan, other questions often arise:

- Were repayments expected?
- Should the loan be written off on death?
- Should it be deducted from the child's future inheritance?
- What interest (if any) was charged?
- What amount is still outstanding?
- Were there any conditions or security?

A simple loan agreement prepared at the time the money is advanced can answer all of these questions. In some cases, instructions can be included in a will or left for your executor. Executors have a duty to recover assets, including outstanding loans, so they must know your wishes clearly.

If confusion arises, the matter may end up before the court. While a court decision brings clarity, it can be expensive, stressful and time-consuming for your family. Clear written terms can prevent this entirely.

WHEN IT WAS A GIFT

If you intended the money as a gift, the situation seems more straightforward but, under Jersey law, gifts to heirs (spouses and children) can sometimes be brought back into the estate through a claim known as *rapport à la masse*.

This process is designed to ensure fairness between heirs, and it can require every significant gift to be taken into account when dividing the estate. These claims can be complex, but they are much easier and far less costly when a clear record of gifts has been kept.

Large gifts should always be discussed with a legal adviser to avoid creating unintended problems later.

THE DIFFERENCE CLEAR PLANNING MAKES

In our experience, most family disputes stem from two things:

1. A lack of information.
2. Differences of opinion about what the parent intended.

By documenting your wishes and seeking advice before giving or loaning money, you may not be able to prevent every disagreement, but you can give your family the clarity they need to avoid painful and expensive conflict.

A short conversation with a lawyer now can spare your loved ones significant stress in the future, ensuring your generosity brings help rather than hardship.



With you every step of the way

Our Private Client team offer a range of specialist services to meet the needs of elderly clients and clients with elderly relatives - including guiding and assisting on matters relating to capacity powers of attorney, inheritance planning and delegations.

With an ageing demographic and increasing life expectancy, we handle the very real issues which can arise in terms of the impaired capacity of family members. We will provide pragmatic advice, technical expertise and an empathetic approach which together will create practical solutions to the issues which our clients face.

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The logo for VIBERTS, featuring the word "VIBERTS" in a bold, dark blue sans-serif font. The letter "V" is stylized with a vertical rainbow gradient bar on its left side.

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