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Wills - Case Study Three: Will Trusts (Protection of Assets)

The Facts

Mr and Mrs Homes had straightforward affairs and, as a result of a recent business sale, were well off, with their combined estate valued at £5m.

They had two children, Robbie and Lisa. Robbie was 21, into extreme sports and did not know what he wanted to do in life, having dropped out of university. Lisa was 22, was currently working in a local stables and wanted to have a career of some sort involving horses.

Mr and Mrs Homes simply wished to leave everything to each other on the death of the first, and then on the death of the survivor equally between Robbie and Lisa.

The Problem

Should both Mr and Mrs Homes die within the next few years, their children would each inherit a great deal of money at a relatively young age. They were concerned that this would not be suitable for a number of reasons:

- The children's potential vulnerability to exploitation and 'gold-digging'.
- The children's immaturity in terms of personal behaviour and business.
- The removal of any incentive for the children to establish a career.
- The potential effect that amount of money may have on the children emotionally and developmentally.

The Advice

Following a detailed discussion it was agreed that on the death of the survivor the net estate would be dealt with in the following way:

- 15% to go to each of Robbie and Lisa upon attaining the age of 25.
- The remaining 70% being divided further into two trusts of identical terms with each trust holding 35% of the residuary estate.
- Each of Robbie and Lisa would have a life interest in their respective trusts and the trustees would have the power to appoint capital to them.

Both Mr and Mrs Homes left detailed Letters of Wishes with their Wills. The letters set out the reasons why they had not left all of their estate outright to their children but had established trusts, and in what circumstances they would expect the trustees to advance capital to each child - for example, should they find a house to buy or wished to establish a suitable business.

The choice of trustees is extremely important in this regard. Mr and Mrs Homes decided to appoint a family member and their solicitor, which provided an ideal balance of family and professional advice and concerns.

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