

Protect your child's future

If you and your partner die, who will provide for the little treasures' financial needs, asks **Andrew Don**

WHEN my wife invited her brother Mike for a meal at one of Golders Green's finest a few weeks ago, he thought it would be a chance to catch up on family news.

But Liz had an ulterior motive. We were due to go on holiday without the kids to celebrate our tenth wedding anniversary and we realised we had not made provision for them if we died in a plane crash, drowned while swimming in the Indian Ocean, or got bumped off by terrorists or a mad axeman.

Who would look after our little treasures and provide for their financial needs until they were responsible enough to manage their own affairs? Liz asked Mike if he and his wife would be their guardians if the worst happened. Mike choked on his gefilte fish.

Jeremy Heal, head of the estates department at law firm Howes Percival in Norwich says: 'It is remarkable how often people come to us because they are going on holiday at the end of the week. It concentrates the mind no end.'

You can leave anything to a charity, husband or wife tax-free, but the nil-rate banding ends at £255,000 when passed to children. Anything over £255,000 is taxed at 40 per cent, provided it is not an asset exempt from inheritance tax such as agricultural land or an unquoted business interest. This means that if one partner dies a few days after the other, you want to be sure that the estate does not pass to the surviving partner. If the surviving partner passes on the whole estate to his or her children there could be a heavy tax burden. You would want to ensure that £255,000 goes direct, tax free, from the hus-

band to the children and another £255,000 tax free from the mother.

Couples planning for the possibility that they could die together while their offspring are under 18 would normally write a will in which they leave their estate 'in trust' to the children. Trustees have to be appointed in the will. Roger Wilson, senior partner at Worthing solicitors Malcolm, Wilson & Cobby, says the executor, guardian and trustee can be one and the same but he recommends that if you have trustees you should have at least two.

'The best thing is to have a professional trustee who keeps an eye on things and a trustee who knows the children personally.' The trustees

'Holidaying together concentrates parents' minds'

hold the money for the children until they are 18, or older if you specify. You can stipulate that the guardians can use part of the estate for the children's upbringing.

The Children Act 1989 requires the courts to appoint guardians for children younger than 18 if you have not done so. But it's better to use your will to specify your own choice if you do not want next of kin stepping in to do the job. Virginia Wallis, author of the *Which? Guide to Financing your Child's Future*, says that sometimes close friends who live nearby can be preferable to family.

It's better to give as many instructions as possible in a 'letter of wishes' to go with your will about what the money can be used for and how you want your children

brought up, unless you want the trustees to have complete freedom about how the money is deployed.

Should the children want money from the trustees, they can always ask the court

to consider whether the trustees are being reasonable in withholding it.

As it turned out, our plane did not crash, we did not drown and the only person we encountered who looked anything like a terrorist was the cheerful chappie who captained our speedboat. Now Mike's sleeping easy once again. Until the next trip.



Holidays can often focus parents' minds on the business of making a will. Getty Images

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