

McDermott
Will & Emery

Case Study

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Case Study: The Family



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Henry (Australia)



Wendy (England)



Olivia, 6



Daniel, 8



Ryan, 13

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Happier times...

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- Wendy and Henry met in 2000
- They married in 2002 and adopted Ryan the same year
- Between 2002 and 2015 the family resided in London
- Wendy inherited £2 million from her father, and helped Henry start a business
- Henry is the founder and CEO of a successful telecommunication company, estimated at £80 million



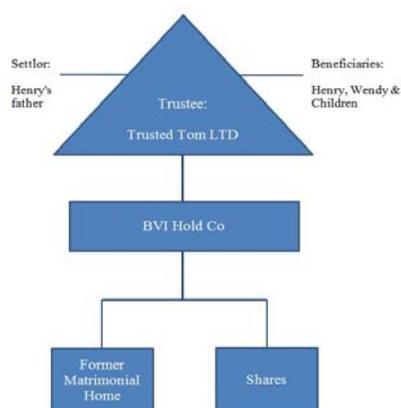
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The structure:

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- In 2010, Henry's father settled a discretionary trust in the BVI for Henry, Wendy and their children
- The trust is administered by Trusted Tom Limited, a BVI trust company
- The trust asset is a holding company of which the trustee is the sole shareholder. Trusted Tom is the director (in his personal capacity)
- The holding company owns 50% of the shares in Henry's telecom company (of which he is the sole director), as well as the family home in London.



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Family breakdown

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- In December 2015 the family moved to Sydney but Wendy did not settle down
- By July 2016, the marriage had broken down
- Wendy and the children have spent the (Northern Hemisphere) summer in London
- Wendy has decided not to return to Sydney and to issue divorce proceedings in London
- Her friend, Fiona, has told her that she can have the trust set aside on the grounds of sham



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Questions

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- Can Wendy issue proceedings in the English High Court?
- How will the English Court approach the division of assets?
- How will she obtain information:
 - From Henry?
 - From the trustee?
 - From the director of Holdco?
 - From Henry's telecom company?
- Can tax/CRS compliance help?
- Data Protection Act?

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Questions

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- How can Wendy bind the trustee?
- How can the judgment be enforced, and against whom?