

Family businesses and small businesses are the backbone of the UK. Small/Medium enterprises with between 1-49 employees account for three fifths of employment and around fifty percent of turnover in the UK private sector. Of course, a family business does not have to be small but they started that way!

Once established these types of business come up against a variety of challenges not necessarily related to their trading!

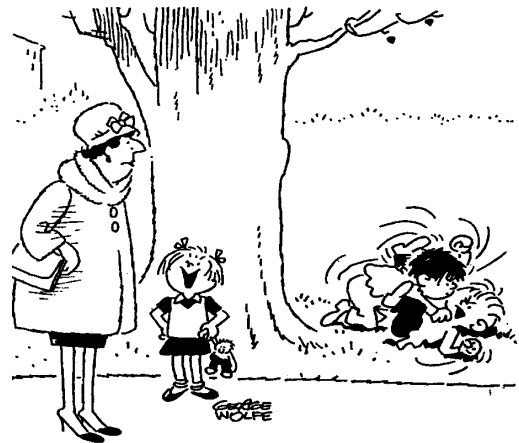
There are so many variables at play and the old Chinese proverb of 'rags to rags in three generations' is all too often true. Creating a business with longevity takes careful planning but in a small business so much time is dedicated to the day to day running that not enough goes into the long term strategy and succession planning. In addition every business has different personalities and family dynamics.

What should I be thinking about to create a business that lasts?

Get the basics right first!

If you run a business think about who you are supporting, this might be yourself, your family, your employees and their families and maybe other businesses that you trade with. What would happen if you were no longer able to make a decision? If you lost capacity, maybe through an accident or a medical condition, who would make decisions about running the business? You may be happy to leave everything to another director but what if you are the sole director or a sole trader? Do you know what your articles of association/partnership agreement even says about what happens in these circumstances?

A business Lasting Power of Attorney will enable you to appoint someone to make decisions on



They're playing "Shareholders"!

your behalf providing this does not conflict with the articles/partnership agreement.

Are you and the other shareholders on the same page?

Do you have a shareholders agreement? Have you discussed what happens to the shareholding in the event that a shareholder dies? If a business with two shareholders, who both work in the company, loses a shareholder, where do their shares go? Ownership of the company could be left to their relatives who have no interest in the business let alone would wish to work in it. This leaves one person doing the work of two and having to divide the profits up with the other's relatives.

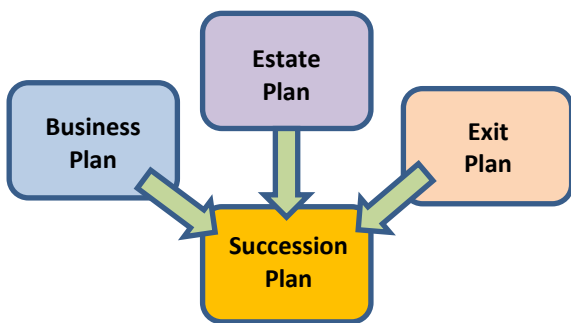
Put in place a shareholders' agreement and dependent on the content of that agreement it may be sensible to put in place some key personnel insurance to enable the company or the other shareholders/partner to buy the shares back.

Passing on the ownership of the business whilst protecting the wealth

As a business owner you may have made a Will to deal with your estate and your business in the event of your death. If not then you should!

Making a Will enables you to plan your estate as a whole and not just look at the business in isolation. There are reliefs from Inheritance Tax that may be available to you as a business owner which reduce the value of your overall estate.

You must think about how you pass on your wealth and where the business fits into that? If you simply pass shares/ownership across to spouse or children you not only begin to dilute the shareholding and therefore the profits and voting power but you also leave the shareholding vulnerable to divorce/remarriage.



You may have some children who work in the business and some who don't so how do you distribute the wealth? Should you create a trust so the trust can hold the shares and then distribute the profits accordingly? The trustees are then able to hold a collection of shares keeping the voting rights together.

Where do I start?

Recognising that you want to plan ahead is the first step!

Caroline Wilden qualified with a distinction in the Society of Trust & Estates Practitioners Advanced Certificate in Family Business Advising. Here is her 5 Step Plan to protect ownership and wealth in the family/small business:

1. An initial meeting helps the advisor to understand the objectives of the key owners/directors.
2. Agree a framework identifying the way(s) to achieve the objectives.

3. Detailed meetings with key stakeholders eg: owners, directors, family members etc.
4. Presentation of the action plan and agreement on next steps.
5. Put the plan into action, set up the necessary legal documents & policies eg: Wills, Trusts, revised articles of association, shareholders agreement, key personnel insurance, family governance, ownership policy, employment policy etc.

Planning for the future is vital to protect the business and having an impartial assessment can relieve the stress of making difficult decisions and help to keep family relationships intact.

Caroline qualified as a barrister in 2010 and became a solicitor in 2013; she is a full member of the Society of Trusts and estate Practitioners. Prior to her legal career Caroline had 16 years commercial business experience and managed multi million pound budgets across various businesses. She has worked for multiple retailers, manufacturers, events companies and in corporate hospitality. She now combines her legal skills with her business background to advise small and family businesses on succession issues and planning for future generations.

If you would like an initial discussion with Caroline please contact us on 01564 758055.

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