



WILLIAM FRY

Core Building Blocks of a Succession Plan



*Every family business should consider formal procedures for dealing with unpleasant life events, such as the death or illness of a family member. Head of William Fry's Private Client Department, **Nora Lillis**, explains why it's vital to address these issues when drawing up a succession plan.*

It is accepted that a succession plan is vital for any business family. For some families it may take time to have a clear strategy and implement such a plan. There may, for example, be very young or inexperienced family members and very clear decisions await their development within the business. There are, however, core building blocks of a succession plan that should never be ignored that deal with the sudden death or illness of a family member.

Will

Every business owner must have a Will. The Will should ensure that suitable persons are entrusted to deal with the estate post death so that the intended beneficiaries receive their inheritance in the most efficient manner possible. Many people do not realise that if they

die without a Will that the law does not automatically follow their wishes. For example, a spouse does not automatically inherit everything. In addition, managing assets and liabilities, in particular business assets, immediately post death can be very difficult if there is no executor appointed under a Will. Trust structures may be required if young children are to inherit business assets. Any Will should also be reviewed to ensure that it takes into consideration the tax issues that arise post death.

Assets and Liabilities

In particular, if there are significant and complex assets and liabilities, someone needs to know how to deal with them (and indeed how to find them) in the event of a sudden death. If there is a clear and up-to-date schedule of assets and liabilities maintained by a trusted adviser, that job can be made much easier.

Immediate post death plan

Family members, in particular those outside the business who have no income, should have the ability to immediately access funds for day to day living expenses in the event of a sudden death. It can take months or years to administer an estate and access funds. If there is personal debt some thought should be given to how that debt will be serviced immediately post death, in particular if there are no associated life policies.

Pre-marriage planning

Every business-owner should take legal advice prior to marriage. Many people are unaware of the significant succession rights that are obtained by a spouse immediately on marriage or that any Will is automatically revoked on marriage. Although, it is generally viewed that pre-nuptial agreements dealing with the division of assets on separation or divorce would not automatically be legally enforceable, they may well be given significant weight by a Court. It is not well known that Succession Act rights that a spouse immediately obtains on marriage may be renounced pre-marriage. In particular, business owners might consider seeking the

renunciation of Succession Act rights over a spouses' interest in a family business where it is intended that the ownership of the business will remain with direct descendants.

Powers of Attorney

With an increasingly ageing population, it is also extremely important to have planning in place should a business owner become unable to manage his or her own affairs through illness or as a result of an accident. An attorney may be nominated under an enduring power of attorney to manage property, including business assets, in those circumstances.