GRASP THE NETTLE TO SECURE THE FUTURE OF YOUR FAMILY BUSINESS

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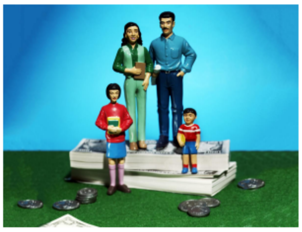
With only one-in-eight family businesses making it to the third generation, what is the secret of their success? Rosalyn Breedy, corporate solicitor at Wedlake Bell, has been advising family dynasties for more than 25 years and shares a few of her observations.

Inertia is a company's biggest enemy. Unfortunately, family businesses are prone to dragging their feet when it comes to key strategic decisions about succession planning, but a failure to address deep-seated problems such as ageing directors, requirements for external skills, how to transfer control and poor communication are at the root of most family business fractures.

I have seen too many families send their children to top universities, encouraging them to obtain business-relevant qualifications and experience in fields such as finance, marketing and operations, only to see these bright and eminently-qualified adult children being left on the side-lines and excluded from decision making.



The head of every family business must make one crucially important decision about the future of the business. Does it want to focus on growth and then be sold or listed on the public markets or not? If the owner decides not to plan for an exit event, then he or she needs to think about how to ensure that the business will generate enough consistent revenue to pay the family dividends as well as fairly compensating the non-family executives.

If the business is to be sold or listed, then share option plans will be needed to align the interests of the executives with the family and the family will need to reinvest serious profits back into the business.

The shareholders' agreement will need to address the timing and nature of sale or admission to listing and the sale contract should deal with protection of employees' pensions and jobs, the use of the family name and legacy, restrictive covenants, apportionment of liabilities and nature of consideration.

A key mistake to avoid, which I have seen too often, is when families go through the motions of succession planning, engaging in protracted stakeholder engagement processes which give equal weight to the views of those family members who did not, or would no longer, work in the business compared to those who would be shouldering the burden of the business in the future.

If the business is to succeed, then serious thought needs to go into the development and incentivisation of future leaders who can come from within the family or outside.

Family benefits and dividend income can then be mediated though a structure separate from the business.

Owners need to recognise that failing to address the difficult issues does not mean that a business continues in stasis. Family businesses like all systems are either growing and moving forward or slowly dying.

A failing family business does its family a massive disservice if its end comes about from a loss of value or a fire sale on the death of the owner.

A family business that does not have a clear strategy for how it will pass from one generation to another is also at risk of losing top talent and strategic contracts as people assume the worst and make alternative career plans.

The main reason for failure to plan for succession is really a strategic one. Although such decisions can be difficult for family business owners, a trusted lawyer or accountant with experience of succession planning will be able to guide the leaders and mediate when conflict arises between different stakeholders.

The key is not to procrastinate indefinitely—grasping the nettle may involve a little pain, but the family and the business will benefit enormously in the long run.

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