

# Structuring the Family Business



Working with family is a common form of business. In fact most businesses in Australia are family businesses. Strangely enough though, very few of these are actually set up with the intention of becoming a family business; that happens almost by accident.

How does this happen? In the early stages of the development of the business the entrepreneur often calls in other family members to fill in gaps. After all they can trust their spouse, son or daughter to do the right thing and they fit in with the needs of the business during the start up phase. What's more, they come cheap and are more than happy to help out in a part time capacity.

Before you know it a few years have passed and the family recruit is handed more and more responsibility and has become a key employee in the business. As the family and the business grow, siblings, cousins, aunts, uncles and other sundry family members are recruited and a whole new dynamic develops within what is now a very complex family business structure.

## Why is Working with Family Different

As discussed in other booklets in this series, working with family introduces a completely new dynamic which has unexpected consequences that are not faced by non-family enterprises. A business is generally created with a view to generating profits and maximising the returns to investors. Families however have a different set of priorities. Bringing them together in the same structure creates issues such as –

- How do you motivate non-family employees who may feel that their opportunities within the business may be limited because your son or daughter is working with you?
- What do you do if a family member is not performing to the level required by the business? If you sack them how will that impact on the family?
- If you need to fill a senior role in the business how do you choose between a family and non-family member?
- If you own the business with siblings, how do you choose between your son and your brothers' daughter when filling a particular role?
- How will you provide opportunities to children who decide to pursue careers outside the family business?
- Who will be the next leader of the family business? Will non-family employees be considered for the role? What if there is more than one child working in the business, how will you choose between them?
- How do you ensure that family members who are not employed in the business are treated fairly?

These are but a few of the myriad of issues that can arise in a family business that don't occur in the outside commercial world.

### ***Need help or assistance?***

***Go to...***

[www.fbrc.com.au](http://www.fbrc.com.au)

email: [fambusiness@fbrc.com.au](mailto:fambusiness@fbrc.com.au)

Tel 03 9018 9800

# Structuring the Family Business



## Structuring the Family Business

One of the key elements of family business best practice is to establish separate governance structures for the family and for the business. This helps to ensure that –

- business issues are dealt with in a business like manner
- that there is a separate forum where family issues can be dealt with in a way that does not bring these issues into the business
- that there is a process for the Board and the family to communicate with each other

## Structuring the Business

Your lawyers and accountants will probably have helped you to establish the legal structure for your business and you should refer to them to ensure that your business is correctly structured from a tax and asset protection perspective.

When the business has grown to the stage where it requires managerial support, it's important to start thinking about creating the correct governance structure for your business. This will involve establishing a management team and an active Board that assists with setting the strategic direction for the business.

Adding non-family members to the Board of Directors, or an Advisory Board is an important step in the evolution of the family business because it -

- brings to the table skills, experience and contacts that the family may not have
- adds a professional discipline to the conduct of meetings
- helps provide objectivity when dealing with family issues

The role of the board is primarily to set the strategy for the business and to control risks which might endanger its ongoing viability. Family best practice recommends that only those who can assist with these functions should be invited onto the Board.

Though younger family members may not currently meet these criteria, if the family plans to remain a family business, it is wise to start training younger members early, so that they will be able to assume the role in the future.

## Family Structures

Though governance structures for a business are common and have been established through corporate legislation, the concept of establishing structures to regulate the family is relatively new in Australia.

Establishing a Family Council is a vital step in giving the family a voice in the family business. It –

- provides a forum where family issues that impact on the business can be discussed
- gives a voice to family members who may not be actively employed in the business
- can take responsibility for drafting a Family Charter which sets out how the family and the business interact
- should consider the return that the family requires as the shareholder/owner of the business

### ***Need help or assistance?***

***Go to...***

[www.fbr.com.au](http://www.fbr.com.au)

email: [fambusiness@fbr.com.au](mailto:fambusiness@fbr.com.au)

Tel 03 9018 9800

# Structuring the Family Business



- can plan events that involve the wider family at which family values and the vision for the future can be introduced to the next generation and to in-laws

Family members are encouraged to take their issues to the Family Council for discussion and if thought relevant, the chair of the Council then raises the issue with the Chairman of the Board for consideration. Often the people in these structures will overlap, but keeping discussion in the correct forum stops the family and the business from tripping over each other.

## Working with Non-Family Directors and Advisers

Because families are generally very private about their affairs there is often a reluctance to introduce outsiders into the system. We have discussed earlier some of the advantages of bringing non-family members onto the Board, but actually doing this can be quite difficult for a family business.

Some of the characteristics that you should look for when selecting outside advisers or directors are –

- Can they fill the gaps? Do they bring in new skills, new networks, new knowledge?
- Are their values and outlook consistent with the families? Do they understand what you are hoping to achieve as a family in business?
- Compatibility and synergy – do you feel comfortable with them? Do they speak your language?
- Will they challenge you, your thinking?
- Do they have experience filling this role in a family business?
- How will you measure if they add value to the family business?

Undertaking a Board Audit to identify the skills that you currently have on the Board and looking to see if there are any gaps, is the first step. You can use similar tests when looking for other advisers to your business.

## In Summary

Family business tends to work better if there is a clear separation between family and the business. Structures, such as a properly functioning Board of Directors and a Family Council can be put in place to help make this happen.

## Other Booklets in this Series

- So you Work with your Family in Business
- Navigating the Pitfall of Working with Family
- Structuring the Family Business for Success
- Exit Options & Strategies for the Family or Owner Managed Business

*This article is for general information only and should not be relied on as, or in substitution for, professional advice. It was written by Harry Kras, Director of the family Business Resource Centre [www.fbr.com.au](http://www.fbr.com.au) for Family Business Australia [www.fambiz.com.au](http://www.fambiz.com.au). Harry is an FBA Accredited Adviser and can be contacted at 03 9018 9800 for further information.*

## Need help or assistance?

**Go to...**

[www.fbr.com.au](http://www.fbr.com.au)

email: [fambusiness@fbr.com.au](mailto:fambusiness@fbr.com.au)

Tel 03 9018 9800