Advising the Family

Most individuals, regardless of the value of their wealth, want to secure the succession of that wealth down the family line. Parents worry about their children's financial security and long-term happiness. Not everyone chooses to transfer wealth directly, particularly if the wealth is significant, held within complex assets (such as a family business), or their beneficiaries are financially inexperienced or vulnerable.

Complexities and Conflicts

Complex succession issues can be complicated by the existence of certain rules based on an individual's domicile, residence, or religion, which may restrict that individual's right to leave their entire estate as they wish on death.

The next generation inheritors may be in a position where they should not receive their inheritance outright – they may be minors, spendthrifts, or embarking on a risky business venture, which may make the inheritance vulnerable to creditors, for example.

Where there is a family business, conflict may arise between different family members, as discussed in a subsequent article.

Family Governance

Families recognise the need to enhance and protect family wealth for current and subsequent generations and avoid the erosion of the wealth (and family harmony) caused by costly disputes along the way. Some families establish a family governance structure as a pre-emptive measure, providing practical core guidance on succession and business matters through the generations.

There is no 'one size fits all' solution. One family may be concerned with building and preserving tangible wealth for the benefit of the current generation and to safeguard it for the next. Another family may be motivated by reputational matters and ensuring that the less tangible, but equally as important, family values are confidently passed down to their children and grandchildren.

Planning and Structuring

Trust structures are still commonly used for succession planning, serving a variety of purposes. Carefully worded letters of wishes should sit alongside the main trust document to provide guidance for the trustees. In addition

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to, or instead of, a trust, a family might wish to consider alternative planning vehicles, such as a family investment company with a careful division of share rights. For unmarried couples, a cohabitation agreement might be useful. For marrying couples, the use of prenuptial agreements is increasingly common, as well as post-nuptial agreements for couples moving between jurisdictions or who are already married when planning begins.

At the very least, all of the adult family members should have a Will in place.

Robustness v. Flexibility

Families often grapple with the need for robustness and durability, trying to imprint strict rules and structures on the next generation with a fear that they might otherwise squander their wealth, or become vulnerable to predatory outsiders (often a spouse-in-law). At the same time, they strive to maintain enough flexibility to allow the family to enjoy the wealth whilst being able to invest and use the inheritance in a positive and productive way.

Managing Family Dynamics

Being a succession lawyer is not all about succession law. Having the expertise to guide clients through sometimes difficult and sensitive conversations comes with experience. Knowing the complexities and intricacies of tax and succession rules is important, but navigating those rules for each unique client is vital.

Contact

At Lester Aldridge, we understand the complexities involved in succession planning and navigating sensitive family dynamics. Our experienced solicitors can advise you on the most effective legal structures to protect and pass on your family wealth. For more information and tailored advice, please get in touch with Lester Aldridge contact.

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