



## FAMILY SUCCESSION DILEMMAS: HEIR, BOARD OR TRUST?

Article | 28 March, 2018 02:00 PM | By [Howard Taylor](#)



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**With an estimated \$4 trillion expected to be passed down within a generation in North America and the UK alone, robust succession planning is paramount—but it can cause dilemmas. What are the options for those family business owners who are now approaching retirement, but whose children and grandchildren are either interested in pursuing alternative careers or too young to take on the business?**

In these circumstances the first issue to consider is whether planning for the succession of a family business is appropriate at all. If the owner's children and grandchildren want to pursue different careers, the business may well corrode if it is passed on to them. If the children and grandchildren are too young to take over the business, there is no guarantee that they will want to pursue the family business when they grow up either. Indeed, for some children of business owners, the pressure to take on the family business can be a burden on them.

If the family business owner is committed to the business being passed on to a future generation, they should consider what happens both to the management of the business and to the ownership of the business.

In terms of the management of the business, the owner will need to ensure that the business can be carried on effectively after they cease to be involved in the day to day running of the business. In the case of a company, a strong and capable board will be invaluable. Good senior managers could be promoted to board positions, supplemented perhaps by the appointment of new, experienced executive and/or non-executive directors. This should help to ensure that the business remains in good shape.

Regarding ownership of the business, there is no reason the owner needs to transfer ownership simply because they are retiring. They could continue to benefit from owning the business even if they ceased to have any real involvement with it. They should consider though whether their shares should be transferred, either before or on their death, to a trustee to hold for the benefit of their children and grandchildren, on the basis that the trustee would only subsequently transfer ownership to one or more of them when they are ready to over the reins. The trustee would have the power to appoint and remove directors with a view to ensuring the company is managed effectively in the meantime.

Care would need to be taken with any such trust arrangements. All too often in the context of family businesses, disagreements can arise between members of subsequent generations as to what share of the value of the business they should be entitled to, particularly between family members who contribute and those who do not contribute to the business. In order to deal with any such potential issues, it may also be worth considering putting in place appropriate family governance structures, such as a family charter.

If planning for the succession of the business is, however, likely to be unworkable, the most sensible and practical course of action might be to look to sell the business. The timing of any sale would be important though. The value of the business will be greater when it is performing well, which may be while the current owner is in place rather than when it is in different, less capable hands. Corporate finance advisers can assist in generating interest from potential purchasers and maximising the sale price. Following a sale, and subject to inheritance tax advice, the owner could then reinvest some of the sale proceeds for the benefit of their children and grandchildren, or pass on some of the sale proceeds to them to invest in other ways. Another option might be an IPO of the company, if it is suitable for a listing, which could also facilitate the sale of a retiring shareholder's shares.



The various options for family business owners will need to be carefully considered, taking into account the circumstances of the particular business and the relevant family members, and it will be important to take proper legal and tax advice. It should also be borne in mind that it may well take a period of time to put any desired arrangements in place.

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