Comments by **Nick Sayers, Partner in the Company & Commercial Department at Payne Hicks Beach** first published by Financial Times online on 7 June 2017 and in the 'Your Questions' column in FT Money in The FT Weekend on 10 June/11 June 2017, and is reproduced with kind permission
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FINANCIAL TIMES

Family businesses

Battle over who will run our family business

Sons are arguing over direction of the company when I retire

Your Questions

4 HOURS AGO by: Lucy Warwick-Ching

I am the chief executive and the third generation of my family run property development business, which has been extremely successful and is now looking to expand globally.

At the age of 69, I am now looking to retire. I have two sons who are both influential within the company. However, they have very different management styles and views on how the company needs to develop to keep our competitive position in the market.

I want to ensure that once I announce a successor, it does not result in a dispute between my sons and harm the company. How do I go about planning for my successor to ensure a smooth transition process and avoid any negative impact on the business?

On the basis that you intend to appoint one of your sons as your successor, clear roles, responsibilities and authorities should be agreed for each of them, to reduce the potential for disputes, says **Nick Sayers, partner in the company and commercial department at Payne Hicks Beach**.

The appointment of an experienced, independent nonexecutive chairman could also be invaluable in guiding your sons through difficult issues and providing an impartial view.

Nick Sayers, partner, Payne Hicks Beach

Assuming that both sons will be shareholders and directors, a Shareholders' Agreement could be drawn up to define your sons' roles and set out how the business is run. It should also outline business decisions that require board approval and the more significant matters that would require the consent of both of your sons as shareholders. It will be important to include procedures for resolving disputes.

At board level, a nonexecutive chairman could have a casting vote. As a last resort, it may be necessary to provide for the company to be wound up if agreement cannot be reached — the possibility of which could itself provide an incentive to your sons to reach an agreement.

Any arrangements are likely to have the strongest chances of success if they are discussed and agreed with your sons before your handover. Whichever route you decide on, it may very well be that your succession will be more effective if you completely step away from the business when you retire and do not retain any influence over executive decisions, and, if you own any shares, hold them only as a 'passive' investor.

However, if your sons have fundamental differences of view, and in your heart of hearts you think it is virtually inevitable that they will fall out, even if you implement the above arrangements, another approach would be to separate the business into two distinct companies, each owned by one of them. The company's properties could be divided between the two companies or the business could be split on the basis of different business or geographic areas, for example, so that each son could take an area of the business in a different direction.

Another option would be to consider selling the business now, before you retire, with a view to each son having funds to establish new businesses on their own. The timing of any sale would be important. Ideally, it would be while the business is performing well, before you pass on the reins and damage is caused by any disagreements between your sons. The business will be more valuable while it is still functioning properly, rather than after any divisions arise.

Robert Fidgen, associate at Withers, adds that to guarantee a smooth transition for your business you should engage in a process to explore your sons' respective goals and ambitions, both individually and together. The aim is to ensure that both sons are committed to the process and agree a common goal, rather than having a succession strategy imposed on them.

There is no short cut to this process and a poorly managed transition may well lead to tension between your sons. This is even more likely if they have different management styles and views on the strategic direction of the company, and the probable outcome would be friction within your family and an erosion of value in the business.

The exploration process is also an opportunity for them to learn from your experiences and for you to be clear on your thoughts for the future of the business. You and your business have clearly already successfully manoeuvred the transition from the second to the third generation of the family, and can draw on this experience.

There are a number of highly skilled family governance advisers that can facilitate these discussions constructively and help you and your sons reach a productive outcome. These advisers will be impartial and a neutral sounding board for all those involved in the discussions.

While you may all differ on how the business should be managed, it should be possible to agree a common vision for the family business.

For example, you may conclude that one of them is more suited to the international development of the business and thus you may have two successors, one focusing on the UK and the other internationally. In the event that an agreed vision cannot be established, it may save many years of family tension and harm to the family business if the operations are split between your sons.

You should not forget that there a number of other stakeholders that should also be taken into account as part of the succession strategy. It would prudent to consider the role of your employees, and particularly senior staff, and their input to the consultation process should be considered. Moreover, within the context of a family business, it is important to factor in the broader family.

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