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BUSINESS ADVICE

Why every family business needs its very own constitution

DAVID HARLAND / Monday, January 20, 2020



While the unique dynamics of a family business provide many benefits, they also create a few challenges. One of the most significant is the difficulty that comes with talking about the future.

Conversations about dispute resolution and succession planning can be hard for any business. Add in the complexity of family politics and relationships, and they become almost impossible.

Not having a clear plan for the future affects all areas of a business. In my experience, one of the best ways to address this is to develop a family constitution.

What's a family constitution?

A family constitution is a document that sets out a vision for how your family and the business can grow together.

Developed by the whole family, it reflects your shared values and beliefs, and also includes a suite of policies and processes for everything from communication to decision-making to remuneration.

Most importantly, developing a family constitution provides a framework for having some difficult – but important – discussions. It involves all family members in the conversation, giving them a chance to shape how the business operates moving forward. By focusing on agreed principles and operational processes, it also helps to remove some of the inevitable emotion and tension.

While not legally binding, a family constitution is effectively a code of conduct. As such, it compels family members to abide by it, for the sake of business and family unity. This is particularly useful in times of crisis and when facing unexpected events, as it provides guidance on the preferred course of action, which was planned when heads were cooler and clearer.

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What does a family constitution include?

There is no set format to a family constitution — it can be as simple or as complex as your family and business require. That being said, there are some basics a constitution should cover.

1. Family values, beliefs and goals.
2. Business history, vision and mission.
3. Ownership structure and transition process.
4. Role and membership of governance groups (like your family council).
5. Communication processes and channels.
6. Recruitment and remuneration.
7. Financial principles, beliefs and accountabilities.
8. Process for entering and exiting the business.
9. Crisis management and communication processes.

It's important to note that a family constitution is not a static document — as your family and the business grows and changes, so should your constitution. Acknowledging

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this, many families include details of a review process in their constitution to help make sure they come together regularly to discuss issues and make any required updates.

Who writes a family constitution?

While any family business can develop their own family constitution, I recommend engaging an independent advisor to facilitate the process. In addition to being able to advise the best way to approach discussion, your adviser can act as an impartial third-party, making sure all family members are involved and fair agreement is reached.

An independent advisor will also be able to help keep the conversation focused on how decisions are made, rather than talking about specific outcomes. This is important as discussing succession planning as part of the development of your constitution will provide your family with the processes and skills required to discuss secondary issues — such as estate planning (i.e. who gets what).

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