Family Charter

The desire to pass wealth and advice to ones heirs is a universal principal which transcends cultures and generations. History has many lessons and examples of what succeeds and what does not succeed in terms of wealth preservation. Perhaps the most successful of which is the British Monarchy which has managed to preserve wealth for many generations, but this did not happen by accident. Conversely, there are many more examples of wealth dissipation over three generations perhaps because of inactivity and or lack of planning. Whilst it is impossible to recreate the institutional fiscal and legal framework enjoyed by the British Monarchy there is nevertheless much that can be done to establish a framework within which a family can operate which will assist in providing enduring guidance and a framework for the resolution of differences whilst preserving and enhancing wealth for future generations.

Organisations work best where the individual's goals are aligned to the collective goal of the organisation. Organisations which are not aligned are less effective and ultimately fail. This applies equally in the context of the family environment.

So where do we begin?

Family Aspirations

What are the business focus, ethics, morals and philanthropic ambitions of the family?

What is the distribution policy? To create enduring wealth the family members should be focussed on the preservation and enhancement of wealth for future generations rather than the dissipation of wealth during their lifetime. The living members of the family should consider themselves custodians of family wealth apart from that part of the total which has been specifically allocated to them for personal enjoyment.

A distribution policy can be defined in a number of ways;

- Stipulation of standard of living
- Access to wealth once hurdles have been achieved, either age, business profit, birth of a child etc.
- Promotion of achievements, approval of a business, academic qualification, philanthropic success

Family Traditions

Often overlooked are family traditions which can form part of the glue that keeps a family together or can become part of the family nightmare if the views of all family members are not taken into account. Modern life means that many parents are bringing their children up in quite a different way to the way they were brought up. The fact is the world changes at such a pace it is impossible to recreate one's own upbringing against an external back drop which is quite different to the one we faced ourselves. Not only are there the issues which arise from rapid creation of wealth but often there are issues which arise from increased mobility resulting in greater geographic and cultural environments.

However, establishing and recognising family traditions is important as a way of preserving the collective identity of the family.

Equally as important, is the recognition and recording for posterity of individual achievements, disappointments and events affecting the family and these can be captured and recorded by annual papers produced by family members.

Procedural Matters

A clearly documented methodology and process with clearly defined roles and responsibilities will enhance the efficiency and aid communication with the family unit.

There should be;

- Clear reporting lines and specified frequency of reports
- Opportunities for discussion between family members and the controllers of family wealth
- Clear aims and objectives for the controllers of family wealth
- Accountability in terms of performance and mechanisms for replacement
- Protection for minorities
- Procedures for resolving complaints and resolution of disputes

Successful communication is essential for procedures to work smoothly and effectively. In an ideal world formalised family meetings should take place periodically to facilitate face to face discussions between family members and the controllers of the family's wealth.

In addition, there should be proper monitoring and review of financial performance, legal audits, financial audits and periodic tax reviews as required to preserve the integrity of the structure. This will assist in engendering a spirit of harmony between the family unit and the controllers of the family's wealth.

The controllers of the family's wealth will be a combination of the family itself and its professional advisors. Where there are a number of family trusts it may be advisable to use a Private Trust Company (PTC) to operate as trustee. Where a PTC is used then family representation on the board of the PTC or on a family counsel whom the PTC could consult with as required, permits the family to input more directly into the control of the family's wealth. Members of the family should be elected to the PTC and or family council and there should be a process for re-election. The family needs to recognise and respect the skill sets of the individual family members and reflect upon where these might be best employed. For example the skill set required to run a busy family commercial enterprise might be quite different to those required to be a director of the family PTC where a conservative approach and good soft skills might be very useful.

Attention needs to given to the detail of how family meetings are convened, who is invited, what represents a quorum, voting rights and resolutions etc. Often this can best be controlled by the family office if one has been established.

Roles and responsibilities

Often the creator of the family wealth wishes to retain influence and control during their lifetime and even to an extent after their death, however, an orderly transition to the next generation is best achieved during the lifetime of the creator of the family wealth. In this way potential family conflicts can be identified and addressed with input from the creator of the family wealth.

Philanthropic activities can be used as a way of allowing family members to co-operate and observe how they relate to each other perhaps in a more relaxed and fulfilling environment. This allows assessment of the individual's strengths and weaknesses and encourages the development of family values and mutual respect.

Spreading roles and responsibilities between family members to those best suited to the tasks is an ideal scenario and reduces the risk of an all powerful second generation individual dominating and perhaps decimating the family's wealth.

Accountability of members is essential to prevent a spendthrift from plundering the family's wealth.

Documentation

Producing a document which contains all of the above will lead to the development of a framework in which the family operates. This enables family members and their professional advisors to have a clearer understanding not just of the family's wealth and how it is managed but also of what their role is and how they fit into the overall landscape. Without such guidelines it is possible for individual family members to become confused or lost or be uncertain of what they can do and should be doing. It is also possible that professional advisors may not realise what is expected of them.

We like to call this type of document a Family Charter.

Confidentiality

Whilst the Family Charter is a powerful tool for the benefit of the family it will also contain sensitive information which the family may not wish to share with the wider world. It will be important therefore to keep matters which are confidential to a smaller circle and this is something which should be addressed in the document.

Implementation

Once the Family charter has been written it then needs to be implemented throughout the family's wealth management structures. How this is done will depend upon the way in which the family's wealth is currently managed.

During the process of implementation it may become obvious that there are areas of overlap which can be eliminated possibly resulting in administrative cost savings. For example where there are a number of trusts and or family companies it may be possible to introduce a PTC to replace several trustees, or it may be possible to reduce the number of directors on family companies.

Besides administrative cost savings, it may become apparent that there are a multitude of investment managers all following the similar investment mandates rather than selecting the best of breed for a specific purpose. An overall review of asset allocation may reveal gaps in exposure to certain categories of asset class and unprotected exposure to currency risks may become evident. Identifying such weaknesses and remedying them will help to preserve the family's wealth.

In addition, improved legal and tax strategies may become apparent.

The outcome of this process may lead to the centralisation of the control of the family's wealth between a larger number of family members but a smaller number of professional advisors. In fact one outcome could be the formation of a family office or working closely with a multi family office service provider.

Conclusion

Whilst it can be seen as a daunting project, often at best the issues identified above are addressed on an ongoing basis by the family without any formal documentation, in the worse case they are not addressed but are kept at the back of mind for family members. For those families that already address these issues documenting the processes now will help future generations. For those families that have them at the back of their minds, documenting the issues will be a starting point to addressing them and will ultimately lead to peace of mind.

In summary the benefits are;

- Enhancement and improvement of the family's investments
- Bespoke structuring to best serve the family's needs
- Improving risk management of the family's wealth management and structures
- Encouragement of family members to engage in the management and preservation of the family's wealth
- Centralisation of administration, increasing confidentiality and reducing administrative cost
- Better minority representation
- Better co-ordination of professional advisors, avoiding duplication of advice and enhancing the effectiveness of structures
- Cataloguing advice received and creating a central reference library
- Centralisation of safe custody, share certificates, title deeds, wills etc

And the disadvantages of not doing so are;

- Family division more likely to occur and feuds develop
- Increased administrative cost and replication of effort (re-inventing the wheel)
- Loss of confidentiality
- Increased risk of dissipation
- Increased risk of minorities being cast out
- Greater prospects for wealth to be exposed to third parties
- Uncoordinated advice leading to multiple advisors and overlapping costs and duplication of effort.