

Business Succession: On Death

What do you have in place should the worst happen?

Many of you reading this article will have considered at some point establishing a personal will and your likely motives for putting this in place will be one or more of the following; you want to limit the amount of tax you pay; if you have children you want to appoint a guardian and ensure they are provided for financially; you want to head off any potential family disputes; and critically you want to have control over how your estate will be distributed after your death.

Individuals generally want to have peace of mind that on their death their wishes are carried out as they would want them to be and it is the same from a business point of view.

Individuals who have business interests via Limited Companies, Partnerships, or LLPs should ensure there is clear instruction as to who and how their business interests are left to...

Worryingly, over fifty percent of UK businesses have not left instructions in a will or any special arrangements regarding shares on their death.

Let us consider an example; a limited company, with 2 shareholders, each owning an equal share of the business. The shareholders are both married, and both have dependents. If we asked either of these shareholders what they wanted to happen to their share of the business on death, they'd likely say they would want their respective families to inherit the cash value of their share of the business and rightly so. However, with no formal agreements in place the reality is often quite different.

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The shares would generally pass to the spouse under the terms of the will (and if there was no will in place, the rules of intestacy would apply). The spouse may wish to 'sell' these back to the business, but there is nothing binding to make this happen. The business may not be able to buy the shares from the spouse (even if they wanted to) as they may not have any readily available cash.

Perhaps borrowing is an option. This will take time.

Would it even be possible against the likely backdrop of a potentially traumatic period for the company?

They could sell the shares on the open market but, would they get a fair value?

How long would this take?

The business would almost certainly not welcome this course of action.

What else?

The spouse may decide to keep the shares and become actively involved in the business. This could be an unwelcome event for the remaining business owner.

Having a business will in place can provide businesses with a solution. It will allow the funds to be in place to facilitate the purchase of shares and it will ensure that the business can continue, and the family are compensated as per the client’s wishes. Peace of mind for all involved and minimal disruption to the business.

Have a think about you own business, whether that be a Partnership, an LLP, or a Limited Company.

Have you considered what you would like to happen should the worst happen?

What have you got in place to ensure your wishes are carried out?

Importantly, if you believe you have something in place, when was it last reviewed?

Does it still meet your needs?

For an initial free no obligation conversation about your own individual circumstances, please contact our Financial Planning Consultant Nathan Douse who specialises in this area on 01772 821021 or email nathan.douse@mooreandsmalley.co.uk and update your business accounts and finances anytime, anywhere via the internet. It enables you to keep your business finances organised.

Statistically speaking...

- 1/3 of limited companies have not reviewed their Articles of Association since the business started.
- Over half of UK businesses have left no instructions in a Will or any special arrangements regarding shares.
- 27 million adults in the UK do not have a will.


Contact Us



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