CONFLICT MANAGEMENT IN THE FAMILY BUSINESS

This section in our BLUEPRINT SERIES gives an awareness to our family business members and interested persons in CONFLICT MANAGEMENT IN THE FAMILY BUSINESS. It gives examples of types of conflicts found in family-owned businesses and some useful conflict management strategies that can assist in minimizing or alleviating disputes.

A. CONFLICT

Conflict is inevitable. It is part of daily life, whether in the family or in the family business. In a Family Owned Business (FOB), the interplay of the family and the business can create conflicts that are unknown to a non-FOB.

A recent Business Family Survey identified 11 major causes of conflict in a Family Owned Business (FOB):

1. Future visions, goals and strategy
2. Balancing needs of the family versus the business
3. Lack of family communication
4. Succession-related issues
5. Financial stress
6. Managing growth
7. How decisions are made
8. Competence of family in the business
9. Lack of family/non-family communication
10. Remuneration
11. Sibling rivalry

B. TYPES OF CONFLICT IN FAMILY BUSINESS

The following gives a few examples of areas in which conflict may arise in a FOB.

1. **Succession and Generational Change and Estate Planning** – Some examples in this area include:

   - The Founder may wish to pass on the FOB to his children. Some of the questions that should be considered during the succession process would include: What is the mechanism by which this is done? Who is selected to lead the organization? Is it based on hierarchy or merit? But answering these questions is not always easy, and the succession process is often stunted. Studies have shown that approximately 30% of family businesses transfer to the second generation, while only 10-15% pass from the second generation to the third generation, and only 4% stay in the same family for the fourth generation (Posa, 2009). According to Alderson:

   “One survey reported 77 percent of failed family businesses that declared bankruptcy did so after the death of the founder (Dascher and Jens, 1999). A small family business is more likely to fail due to the lack of a succession plan than through financial or competitive market forces. Many family business researchers agree that one of the main reasons for failed successions is a lack of effective decision making (Shepherd and Zacharakis, 2000; Ward, 1987) and lack of proper planning (Posa, 2009; Ward, 1987). The problems of poor communication, poor planning, poor decision making, and interpersonal familial conflict among family members slow decision making and thus business effectiveness.” (Alderson, 2015, 144).

   - The children of the Founder may find it difficult or even impossible to disagree with him. Deviation from the Founder’s views may be seen as disloyalty to both the family and the family business. Founders may be unwilling to change their original business model or explore new markets or divest unproductive assets. This lack of open communication can lead to forced dependence upon the status quo, resulting in reduced market share, lack of
investment in new and emergent businesses areas, failure to recognize competitive threats, and product stagnation (Ward, 1987).

- Where a ‘generational shadow’ (Davis and Harveston, 1999, p. 311) exists, the Founder floats or lingers over the family business, which has both positive and negative aspects. Successive generations benefit by having at their disposal the source of the original mission and vision of the business (Alderson, 2015, 143). However, successive generations may be inhibited from making decisions as while it may appear that they do have decision-making powers, it is artificial and constantly usurped by the Founder. Such negative influence has been a major reason for succeeding generational members to exit the family firm (Stavrou, 1999).

- Differing ownership proportions in the family business may give rise to conflict. For instance, in the first generation, the Founder, initially owns 100% of the business. In the second generation, his two children, A and B, each own 50% of the business. However, by the third generation:
  - A has one child, who owns 50%, and
  - B has 5 children, who each own 10%.

The ownership proportion looks like this:

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**The Dark Side of the ‘Generational Shadow’? – Ford Motor Company**

*Edsel Ford, son of car legend Henry Ford, became President of Ford Motor Company. Edsel was talented and pioneered the development of the Lincoln car division. However, his father scrutinized and second-guessed him and there was animosity between them. As a result, Edsel’s health deteriorated and Edsel’s wife blamed Henry for Edsel’s death. He was 49 years old. Henry re-gained control of Ford at 77 years old. The inability of the elder generation to loosen the reins on power and control and allow the next generation to flourish, is the main reason why the next generation leaves the family business. (Alderson, 2015, 147).*
This can create conflict, with different branches of the family owning differing proportions of shares in the FOB.

2. **Employment and Compensation in the Family Business** – Is it considered an automatic birth right to work in the family business? Or should it be based on educational level and experience? How does one balance a shareholder who works in the FOB and understands the need to invest to stay competitive, versus a shareholder who does not work in the FOB, receives dividends and sees such investment as depleting his dividends?

3. **Interposition of Family Issues and Roles onto the Family Business** – The domineering and authoritative cousin at the family function behaves the same way in the family business. The company and the family have different objectives, so the behaviour of each family member in the family business should be different.

4. **Transposition of the Family Issues upon the Business** – Conflicts, hurts, transgressions, and perceived injustices in the family can be transposed onto the family business. These relationship conflicts may also continue for generations, with attempts at resolution being seen as a betrayal or disloyalty to that family branch. What was perceived to be an ulterior motive or a parti pris in the business system, ultimately, could have stemmed from a psychological or emotional scar developed in the family system many years ago.
5. **Conflict Avoidance** – In this scenario, family members opt to avoid any confrontation or disagreements with any other family member. This can be as a result of ‘silent treatment’ when the family member is emotionally and physically drained, or fear of instigating or persisting disruption and disharmony within the family. This can be even more perilous than confronting the conflict head on, as the conflict and emotions are left unaddressed, creating the possibility of a violent eruption later on.

C. SUGGESTED CONFLICT MANAGEMENT STRATEGIES

Below outlines some strategies that can be used to manage conflict in the FOB.

1. **See succession and estate planning as a process and one that involves open communication and input among family members.** If necessary, use an independent professional, such as a mediator or family business advisor or Attorney-at-Law, to assist in both the communication and the succession process.

2. **Develop Family Policies** – These can include a:
   - Family Employment Policy: This Policy outlines terms and conditions of family employment within the business. This can include rules relating to entry, staying and exiting from the business, minimum education requirements, non-discriminatory provisions for family and non-family members, in-law employment, age qualification, short-term internship and summer/school vacation employment.

   - Family Compensation Policy: This Policy outlines the process adopted to determine compensation for family members that work in the business. It may include, for instance, that compensation is based according to the market value of the job performed. The Compensation Policy should be structured in a way that ultimately reflects the family goals and supports its business strategy.
3. **Develop Family Governance Institutions such as having Family Meetings or establishing a Family Council.** Family Meetings are informal meetings where the family, typically those family members that work in the business, can freely speak about the business and their concerns. The Family Council liaises with the family, the Board and management and its members can include in-laws and spouses.

The Family Council:

“...focuses on the family needs of the business and recommends policy and procedures to the board of directors. It is a place where members of the family can discuss their views, become more informed and aware of issues, and set policies and procedures to benefit the family and the management of the business. Councils discuss such items as hiring and termination of family employees, fair family compensation policies, reporting procedures, and buyout policies of family members. Tools such as the family council are thought to enable a family to increase the level of communication in a family firm and professionalize the governance of the firm, thus resulting in reduced conflict. The family council and the family constitution (below) are two of the most important corporate governance tools used to improve communication and to prevent and reduce conflict.” (Alderson, 2015, 150).

The Family Meetings and Family Council allows for open lines of communication in a safe environment where members can ventilate their concerns and have them addressed, thereby mitigating the risk of conflict.

4. **Develop a Family Constitution** - The Family Constitution, also called the Family Strategic Plan, is a written document that outlines the family commitment to core values, vision and mission of the business and defines the roles, compositions and powers of key governance bodies of the business (IFC). The Family Constitution is as a result of the collaborative effort and input of the family members. This helps to ensure that family members abide by the philosophy of the Family Constitution.
5. **Engage professionals who can assist in facilitating open lines of communication, beginning the process of reconciliation and restoration, and rebuilding trust in the family.** This is especially useful where there has been toxic communication and experiences in the past.

6. **Establish a Conflict Resolution Process** – This can be a collaborative effort from family members, which helps to ensure compliance to the process set out. This can be a tiered process. For instance, the conflict can initially be addressed in the family meetings or through the family council. Even if it is not fully resolved at this stage, there may be some distillation of the issues involved in the conflict. Meeting with professionals, such as a Certified Mediator can be the next step. If the issues have not been resolved or only partially resolved, an Arbitration can then be used as a form of alternative dispute resolution. Thereafter, litigation may be commenced if the conflict has not been resolved.

7. **Establish an Advisory Board and/or retain Non-Executive Directors (NEDs) on the Board** – The Advisory Board is a team that advises the Board of Directors, but do not have formal decision-making powers. The team can comprise professionals and experts in their respective fields that are equipped to advise the Board of Directors, who may not have the required proficiency in a particular area. According to the Family Business Survey 2013, “*Family business firms with formal advisory boards performed better (both in terms of business performance and achievement of family-oriented goals) compared to those that did not have formal advisory boards.*” (KPMG and Family Business Australia, 2013, Family Business Survey, 5).

Having non-family NEDs on the Board promotes objectivity, heightens independence, widens perspective and scope and can improve the effectiveness of the Board especially where the business faces new conditions. There has also been an increasing trend to appoint family members as NEDs, rather than non-family NEDs, for reasons including family members having a growing desire to participate in business governance or in transition from a management role to a board position, or the business is unable to find suitably
qualified non-family NEDs (KPMG and Family Business Australia, 2015, Family Business Survey, 16).

8. **Communicate**: Fisher and Fry in their well-known book, ‘Getting to Yes’, suggest what can be done to treat with problems in communication. The authors make the following recommendations:

- **Listen actively and acknowledge what is being said.**
- **Speak to be understood.**
- **Speak about yourself, not about them.**
- **Speak for a purpose.**

Some ways of implementing these recommendations would be to:

- Communicate to the other party in a way that they will understand.
- Use “I” statements, rather than “You” statements. For instance, “I would like to play a more independent and active role in the family business”, rather than “You should give me more space to be independent and active in the family business” or “You don’t give me enough space to be independent and active in the family business.”
- Try paraphrasing and summarizing what the other person is saying. They will see you are making an attempt to understand what they are saying, and reciprocate.
- Try to create options.
- Understand that expressing emotions is acceptable, but do it without blame.
- Retain the services of a trained professional to assist with communication among all parties.


