



**Peter Whitehead, Mutual Trust**

Peter is senior trustee director at Mutual Trust. He takes the mystery out of complex family succession arrangements. He enthusiastically engages with families and their advisers to provide essential peace of mind; making sure that what is important to families can, and will happen. Peter is highly involved and assists in the delivery of benefits to Indigenous Communities from Native Title Trusts. Peter is a lawyer with 42 years of experience in analysing and providing sustainable strategic solutions for wealth governance, estate planning, trust management and family succession. Previously, Peter was CEO at Public Trustee NSW and a national manager at Perpetual.

# GETTING THE CONVERSATION STARTED

Peter Whitehead

**F**ocusing on the purpose of family wealth and what matters most about being a successful family is an extremely valuable exercise. It facilitates many catalysts for clear roadmaps for the enjoyment of life, risk-appropriate investment and tax efficient and fit for purpose structures. Of equal importance, families discover what appropriate family meetings are required and adopt a governance model to enable open conversations and shared accountability.

Understanding purpose feeds into the one area where families are known to get nervous and procrastinate. I am talking about a thorough succession review leading to a reviewable plan with clear solutions, so that when you ask the many questions starting with “what if...” you will be assured that you know the “who”, “what”, “when” and “how” your family wealth will be controlled and transferred. You will be meeting your accountability to transfer stewardship in the best way possible.

But what makes people anxious to start talking about succession? Why do they procrastinate over decisions which carry such a long-term impact? Why do some prefer to “let the family work it out when they are gone”?

These are complex questions but I believe it is because succession is not just about money or property. It means confronting family relationships. It requires an emotional commitment to a process that

once started must run its course. Finding solutions involves discussion about fairness, equity, choices about who is in “the family”, and their capabilities for current and future roles. These are often challenging conversations in uncharted waters.

A further inhibitor is an experience many have had of the narrow legalistic approach to succession: one that follows the basic estate planning route where the actual implementation of an estate plan is just assumed to work irrespective of the family dynamics. Family members may be thrown together, ill-prepared to deal with the myriad of important responsibilities.

At Mutual Trust, we take the time to make sure that the drivers for succession planning connect personal motivations, the purpose of wealth, specific family issues, and most of all, by starting with a fresh page. Often this means for the first time that family wealth and its management is seen through a succession lens.

This enables us to examine the merits of what has been done so far, and then after intimate discussions, set the course for decisions in the future.

We start every succession journey by asking some simple questions that I hope you will find useful:

- What are the stories behind how your family wealth was created?
- Is this heritage still important or has your family moved away from these roots?
- Is it important for the wealth to be sustained and controlled across generations as one family?



#### The quote

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- Or is each family a new starting point with independence being more important?
- Is your family ready and able to commit to the succession outcomes?
- Who are the people you want to make responsible for the delivery of your succession plan?
- What is the most appropriate family governance model going forward to ensure the success of intergenerational planning: how will the family meet, what values and what vision will drive their considerations?

I encourage you to think about whether or not you could comfortably answer these? And would the answers be different from your spouse or from your children?

### A delicate matter of control

The issue that is perhaps of greatest concern is your choice of who is in control of the family wealth transfer or its continued management.

Wealth is transferred in many ways: through family trusts and superannuation funds and investment companies created in your lifetime; and through both direct distributions and via testamentary trusts created in your Will. In choosing family members to fill roles as trustees, directors or executors, often a reality check is needed on how the next generation gets on with each other and whether the wealth pool will be subdivided wholly or in part. Have the family members previously made important decisions together? Our clients often start family council meetings to not only expose your family to big decisions but to observe the dynamics, the strengths and weaknesses of each family member. This helps to create a culture of family members respecting differences and retaining personal respect for each other. Smart decisions about investment, discretionary distributions and philanthropy are not just made: they require learned skills, discipline and the assistance of trusted advice.

A more formal approach to family governance allows family members to learn and deliver the purposes of family wealth, what matters most, in a controlled environment. When family members consider the implications of investment risk, asset protection against marriage/relationship breakdown, and defined distribution preferences they prepare themselves for future roles. Mutual Trust has observed in many families how this enables you to make the correct decisions who is best to take a role in managing your succession plan.

### Hard won, easily lost – planning for success

Estate planning tools such as wills, trust deeds and statements of wishes can go some way to chart the course you wish for succession to wealth, but your appointed executors and trustees are the decision makers. Do they have reliable avenues for advice? Are independent trustees, such as Mutual Trust, a sensible option to provide direction at arm's length?

Some families I work with are committed to keeping collective family stewardship of their wealth. They work well with this approach through maintaining a high level of mutual trust and respect in making joint family decisions. Others find it hard to envisage the certainty for family trust continuing beyond their lifetime: are the parents the glue for the family working together; what will bind the family after they have gone?

This is perhaps one of the biggest issues to come to terms with and there is no right or a better approach. But the underlying dynamics and implications must be explored and solutions put in place to reflect the reality of your family.

Our aim is always to remove the anxiety around family succession and to confront any issues with proper discussion and solutions. Peace of mind is not an unattainable aim and not having meaningful discussions is not an option where your family's future is concerned.

### Concluding thoughts

Mutual Trust's experience with delivering what matters most to families always includes resolving appropriate succession plans to make sure that the purpose of family intergenerational wealth is delivered. Although confronting succession issues can be unsettling, it is through facilitated discussion that options are worked through and "best-fit" solutions implemented. It is always best to work with family realities and what likely scenarios are to play out within the foreseeable future. I often ask my clients to focus on the family in the next 5-10 years in order to make the correct succession choices. Depending on age and state of health solutions can be more final or flexible enough to adapt to changing circumstances in the family.

Mutual Trust's approach to working with family wealth using a succession lens will create a clear roadmap for your family and remove any uncertainties which can create unnecessary anxiety. If you are unsure of what you would answer to many "what-ifs" that arise in family wealth management and intergenerational succession, it is important for you to embrace the opportunity for impacting well-planned and smart solutions. **FS**