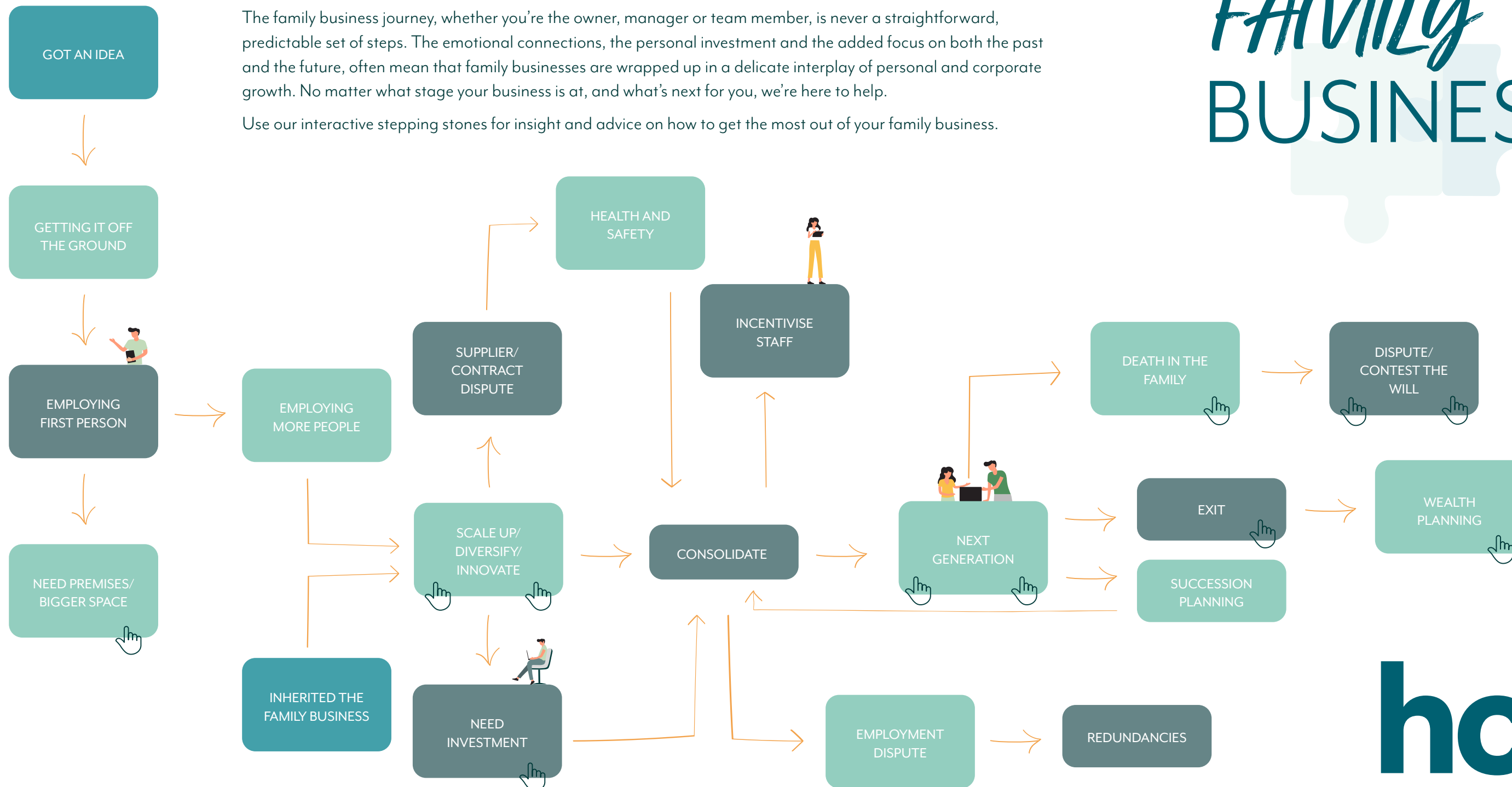




FAMILY BUSINESSES

The family business journey, whether you're the owner, manager or team member, is never a straightforward, predictable set of steps. The emotional connections, the personal investment and the added focus on both the past and the future, often mean that family businesses are wrapped up in a delicate interplay of personal and corporate growth. No matter what stage your business is at, and what's next for you, we're here to help.

Use our interactive stepping stones for insight and advice on how to get the most out of your family business.





FAMILY BUSINESS FINANCE TOP TIPS

Need to raise finance for your family business? Here are our six top tips

1

The ability of a business to raise finance, in the majority of cases, depends on the assets available to a lender against which it can secure its lending. Consider freehold or leasehold property, debtor book or inventory and whether such assets are already charged to any prior funder. This will determine the type of lending available (property finance, asset finance or invoice finance). If the business owns its own property, consider if a sale and leaseback provide sufficient funding for future growth.

2

Lenders back good people. The credibility of the management team is crucial. Does the business have a good story to tell? Where has the business come from and where is it going? A business that can demonstrate a good track record of growth and has the ambition and commitment - based on a strong business plan with milestones and KPIs - to develop and grow to the next level is more likely to be attractive to and secure funding from investors/lenders.

3

If considering any of the current Covid-19 government backed lending schemes, you need to act fast. The deadline for applications to CBILS, CLBILS, the Bounce Back Loan Scheme and the Future Fund has been extended to 30 November 2020. Schemes such as CBILS will include a 12 month interest and fee free period.

4

Whilst your existing bank is an obvious first port of call, also consider other sources of funding such as additional equity investment, issue of loan notes or bonds, high net worth investors, crowd funding, alternative lenders and grant funding.

5

Lenders will pay close attention to a business' financial health and therefore the quality of information you provide to them is key. Consider whether a new Finance Director appointment is required to drive through any expansion programme. If the business cannot support a full time FD role, consider engaging the support of a specialist finance professional who can work with you to make your business attractive to investors/funders to ensure that any funding application is successful first time around.

6

Be clear on your funding requirement including how long it is needed for, as this will impact the type of funding and security required.



For more information on financing your family business, contact

Tim Littler, Partner, Banking and Finance

M: 07725 242 593 | E: tlittler@hcrlaw.com



Is your business a legacy or a millstone?



IS YOUR BUSINESS A LEGACY OR A MILLSTONE?

For many family business owners, a key factor in a wide range of decision-making is whether they perceive their business to be an asset worth preserving for future generations, or a headache they would sooner not pass on. This emotional push or pull can be incredibly powerful.

I have witnessed a number of entrepreneurs dissuade their children from joining the family firm. Often this is on a “not now” basis, with parents keen for the next generation to earn their stripes elsewhere first; but sometimes it is a clear “not ever”.

Once our entrepreneur has reached this crossroads, their attitude towards their business can change dramatically.

The realisation that the business may not pass from one generation to the next can see a subtle shift of focus, from growth and expansion to protection and ring-fencing. Whilst understandable, the desire to guard the nest egg can lead to caution. A reluctance to expend capital can – at worst – stifle an otherwise healthy business and can ultimately undermine the value our entrepreneur is seeking to protect.

Conversely, where there is an expectation that the business will pass to future generations, the present owner-managers are frequently prepared to invest for the longer term, even if they may not (directly) reap the rewards. This is especially the case when it comes to investment in tangibles, such as property.

Of course, the answers to the “what next?” questions inevitably necessitate a degree of planning.

If children are joining the business, now or at some future point, will they take equity? How will decisions be taken, if and for so long as there are multiple generations in the business? Who (if anyone) calls the shots? How and when will the founders retire?

These sorts of issues will need to be considered and it is wise for them to be documented (which is frequently done by way of shareholders’ agreement).

What if not all siblings will be involved? Parents will want to make sure their wills make adequate provision for all children – often by specifically allocating business and personal assets.

If the business is not going to be passed on, how can the value be realised? Trade sales tend to be attractive, but timing is crucial – parents will often want (or need) to preserve income for a period before they receive a capital sum, but if a sale is left too late and the business has suffered from under-investment, the value can be diminished.

Business owners are sometimes attracted to the idea of separating the trade from the property, and selling the former but retaining the latter as a “headache-free” income stream for them and their next-of-kin. My real estate colleagues will have a view on the extent to which property is “headache-free”, but a restructure of this sort requires careful consideration and input from tax as well as legal advisers.

Whatever decisions are reached, experience shows that it is never too early to engage with professionals when planning to sell.

Lenders will pay close attention to a business’ financial health and therefore the quality of information you provide to them is key. Consider whether a new Finance Director appointment is required to drive through any expansion programme. If the business cannot support a full time FD role, consider engaging the support of a specialist finance professional who can work with you to make your business attractive to investors/funders to ensure that any funding application is successful first time around.



For advice on taking the next steps with your family business, contact

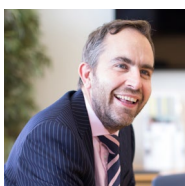
Tom Bartley-Smith, Partner, Corporate

M: 07471 497 665 | E: tbsmith@hcrlaw.com



Immediate action for anyone with a commercial lease they no longer need

IMMEDIATE ACTION FOR ANYONE WITH A COMMERCIAL LEASE THEY NO LONGER NEED



For advice on a commercial lease you no longer need, contact

Philip Parkinson, Partner, Head of Real Estate in Worcester and London

M: 07917 777 893 | E: pparkinson@hcrllaw.com



Three top tips for anyone thinking of selling their family business

THREE TOP TIPS FOR ANYONE THINKING OF SELLING THEIR FAMILY BUSINESS



**WATCH
NOW**



For advice on selling your family business, contact

Tom Bartley-Smith, Partner, Corporate

M: 07471 497 665 | E: tbsmith@hcrlaw.com



Family Businesses working webinar series: [Can my business survive my family?](#)

FAMILY BUSINESSES WORKING WEBINAR SERIES: CAN MY BUSINESS SURVIVE MY FAMILY?



**WATCH
NOW**



For advice on how your business could tackle the inevitable problems that arise when families and businesses mix, contact

Charlotte Thornton-Smith, Partner, Corporate

M: 07790 131 843 | E: ctsmith@hclaw.com



Contesting a will – top 10 frequently asked questions



CONTESTING A WILL – TOP 10 FREQUENTLY ASKED QUESTIONS

Who can contest a will?

1

Anyone may be able to contest a will. If a will is overturned, then a previous will (if there is one) will become valid. Accordingly, one of the first issues to consider is whether you were provided for in the previous will. If there is no previous will, then the rules of intestacy apply. In other circumstances, you may be able to claim that the will did not provide you with a reasonable financial provision or that you were promised property by the deceased and changed your circumstances as a result of that promise

Can I stop the Grant of Probate being obtained?

2

Yes – we can enter what is known as a caveat which puts a hold on the estate, preventing the Grant of Probate from being obtained. This lasts for six months and can be extended for further six month periods. You must have grounds to challenge the will in order to put a caveat in place, otherwise, an application can be made to set aside the caveat.

Is there a time limit to bring a claim?

3

For a claim for reasonable financial provision, you must bring a claim within six months of the date that the Grant of Probate was issued. For other claims, there is no time limit; however, it will be in your best interests to bring a claim as swiftly as possible and before the estate is distributed.

How do I prove that someone made the deceased change their will?

4

An allegation of undue influence is very hard to prove because, unfortunately, the deceased would be the best witness. This is why it is important at the outset to gather evidence which may assist your case. We will investigate all the circumstances for you, including the will file and assess whether you have sufficient evidence to suggest that the deceased was made to change their will.

How are costs dealt with?

5

Contesting a will is a very emotional and time consuming process and it does involve significant costs. There are various ways that costs can be dealt with, and we are happy to discuss these options with you. With litigation, the general rule to costs is that the successful party will have a portion of their costs paid for by the losing party, but there are exceptions.

Can I get a copy of the deceased's medical records?

6

We can apply for the deceased's medical records, on the basis that you have a potential claim against the estate of the deceased. These records are helpful in building a picture of the physical and mental health of the deceased around the time the will was prepared.

Will a hand writing expert be needed?

7

Every case is different, but if you believe that the will may not have been executed properly, as it was not signed by the deceased, a hand writing expert may need to be instructed.

What is the role of the executors?

8

The role of executor is an important one and comes with various duties and powers. An executor must be impartial and must act in the best interests of the estate. There are often issues where an executor is also a beneficiary and confuses his two roles. If an executor is behaving improperly, this is something we can address.

Does it matter if we weren't married?

9

If you were not married to the deceased, this will not necessarily prevent you from claiming against the estate in certain circumstances.

Are my parents allowed to cut me out of their will?

10

In England and Wales, a testator is free to change their will as many times as they like, at any time. However, if you are concerned about the circumstances in which the will was prepared or executed, then please do speak to us.

Be clear on your funding requirement including how long it is needed for, as this will impact the type of funding and security required.



If you would like advice on bringing a claim against an estate, then we will be happy to help. Please contact

[Beth King-Smith](#), Partner, Head of Disputed Wills, Trusts and Estates

M: 07384 119 523 | E: bkingsmith@hcrlaw.com



My relative made a DIY will and I have concerns. What can I do?



MY RELATIVE MADE A DIY WILL AND I HAVE CONCERNS. WHAT CAN I DO?

When a loved one passes away, it is a very emotional and challenging time. This time can be made even harder when the will that they have left is either unclear or you have concerns about its validity.

What is concerning about a DIY will?

In the UK, more and more people are choosing to prepare their will themselves to save the cost of legal fees.

The mistakes and errors made in DIY wills can result in the whole will being invalid or cause some or all of the gifts made in the will to fail.

Common mistakes

Here are some common examples of mistakes and errors to look out for, or problems which often result in claims:

The will reads "I leave my house to my son"; the deceased did, however, have two sons, so it is unclear to whom the house is gifted.

The will fails to explain what will happen to the estate in its entirety, leaving some parts of the estate to fall to the intestacy rules.

The will has not been signed and /or witnessed correctly, meaning that it is invalid.

A person who will benefit under the will has also acted as a witness, meaning the gift made will fail.

You are concerned that the testator lacked "testamentary" capacity when the will was made, or that it was made under duress from someone else, particularly where the person making their will was in a vulnerable position.

What can I do?

If the above examples ring a bell with you, do get in touch so that we can discuss your concerns and advise on your options.

Some of the common claims that are made following the above concerns are:

Seeking to challenge the will due to a lack of due execution, when the correct procedure was not followed when the will was prepared.

Seeking to challenge the will due to lack of capacity, when you believe the person making the will lacked the required mental capacity at the time of the will being prepared.

A claim under the Inheritance (Provision for Family and Dependents) Act 1975 to claim for provision from the estate, if you feel you have not been sufficiently provided for or feel you have been excluded as a result of the DIY will.



Should you have concerns about the validity of a DIY will, or are not sure what you are entitled to inherit, and would like advice on challenging an estate, please contact

Beth King-Smith, Partner, Head of Disputed Wills, Trusts and Estates

M: 07384 119 523 | **E:** bkingsmith@hcrlaw.com



Actions you can take today to protect your family business

ACTIONS YOU CAN TAKE TODAY TO PROTECT YOUR FAMILY BUSINESS



For advice on how to protect your family business, contact

David King, Partner, Wills, Trusts and Estates

M: 07896 891 284 | E: dking@hcrllaw.com



5 ways of growing your business

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5 ways to increase your business profit

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Talk to us



TALK TO US

Charlotte Thornton-Smith, Partner, Head of Worcester Office

M: 07790 131 843 | E: ctsmith@hcr law.com

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