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kcmHeirloom

Succession Planning

**From legacy to
leadership**

Family Council

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Background

Welcome to **kcmHeirloom**

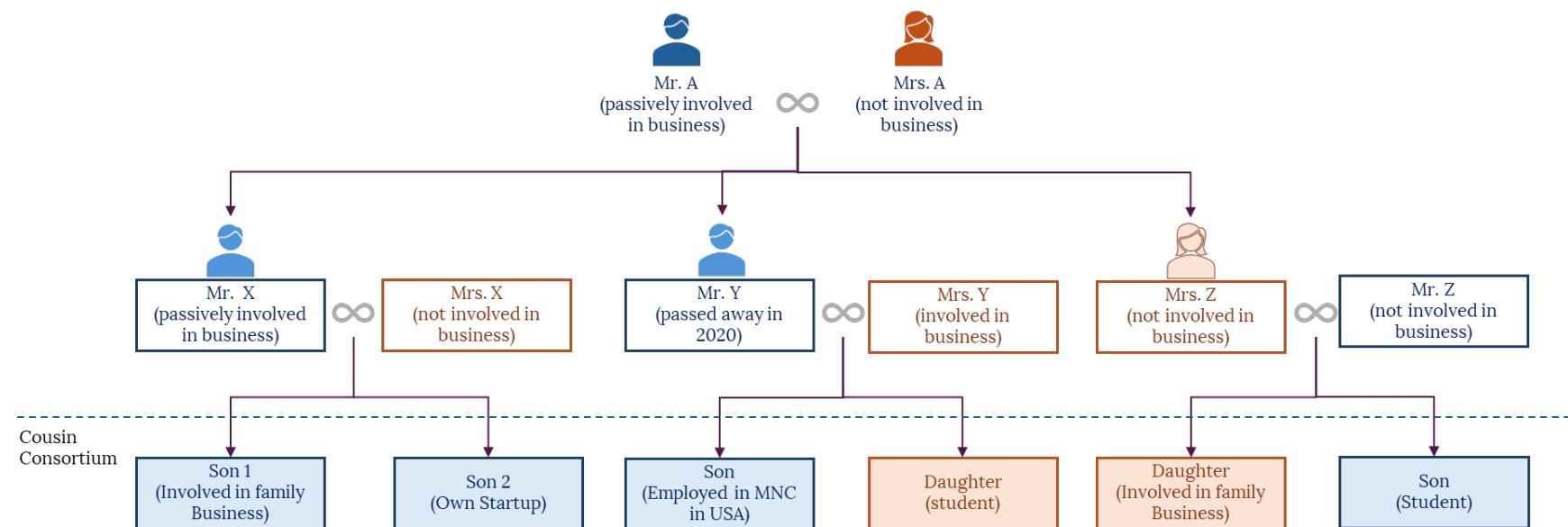
Succession planning and family governance are more than just legal or financial matters—they shape the legacy of generations. **kcmHeirloom** is a dedicated publication offering insights into the complexities of succession planning, wealth preservation, and the stewardship of family assets. From 'The challenges of passing down a family business' to 'Selecting the best instrument for succession' or 'Steps which can be taken to ensure effectiveness of a will'—these are not just technical topics but real-life concerns that influence families, businesses, and legacies.

Through expert perspectives, case studies, and evolving best practices, we aim to provide clarity on key challenges and opportunities in sustaining family wealth across generations. Whether you are a business owner, trustee, or next-generation leader, **kcmHeirloom** will serve as a valuable resource for informed decision-making and enduring legacies. Stay engaged as we explore the legalities, principles and strategies that define lasting family wealth.

Introduction

This is the typical progression of a family business – one or a few family members work on their idea to start a business and consistently working towards their vision, they grow it into a flourishing business. Their passion to realize the vision they have for the enterprise is so deep-rooted that in many cases the next generation is also inspired to join the business and help grow and nurture it. This inspiration is more of a legacy which spreads through the family's genogram and before you know it is a consortium of cousins who are partnering in the family business to ensure the collective vision of becoming better and growing is realized. Eventually, this often leads to complications in terms of decision-making pertaining to sensitive aspects of business and family wealth. In this issue of the KCM Heirloom, we have covered a fictional case study which shows the practicalities and usefulness of a family governance system, more specifically, a family council.

Family Tree to Family Council



The reins of the Shah family's pharma business which was established by Mr. A now reside in the hands of the second generation (G2). Some of the members of the third generation (G3) have started getting involved in the business. The family tree tells a familiar story of a business family running into three branches, spread across three generations with the shareholding being scattered across the branches. Some family members play an active role, while others remain shareholders without direct business responsibilities. The family understands that it is time for shifting the gears

of business succession, which has prompted mixed responses and questions from members. The family understands that succession is not just about who inherits ownership, but also about building a platform where every branch of the family has a voice. Inspired by Indian families¹, the Shah family has decided to form a **Family Council**, as a part of their family governance system. With their limited knowledge on the subject, they plan to consult an expert.

Family governance systems are frameworks created by families to guide how current and future generations operate. A **Family Council** is a governance forum serving the family's collective interests such as the role of the family members in the family business and resolving disputes within the family by providing a formal space for discussion. It is distinct from the business board. It addresses concerns such as ensuring smooth succession, protecting familial unity, and giving every family branch a voice. Though all the members must remain beneficiaries of the company's profits and growth, the management of the business must be in the hands of the trusted and qualified members. Globally, such councils are considered crucial for educating family members, resolving conflicts, and preparing future leaders. It is worth noting that Family Council is a concept, and not a legally binding construct or document covered by a governing statute. However, the structure and terms of one's Family Council can be weaved into legally binding documents (where required) like shareholders' agreements (SHA), trust deeds and so on.

Bringing the Family Council to Life: Unified Family Business

Mr. A had shifted from executive & operations to mentoring the G2 a decade ago, however, he had not implemented any robust mechanism in place or initiated a succession plan that addressed not only wealth transfer but also governance. With the help of expert, they have formed a Family Council.

At the first meeting, held away from both office and home, the atmosphere feels different. Every branch of the family has nominated a representative. The eldest member not actively involved in the business, i.e., Mr. A, is asked to chair, who brings wisdom and neutrality. Mr. X has been named the Vice Chairperson to ensure continuity of the chairperson's role. There is also a practice of naming a non-family member as the chairperson of family council (may not have extensive powers or control) to maintain independent perspective to business².

¹ Indian families such as the Bajaj Family have formed family councils ([Humara' Bajaj: The Secret Sauce by Fortune India](#))

² The Shepherd Family of the U.K. appointed a non-family chairperson. ([Family Councils: A Practical Guide by Peter Leach](#))

Council in Session

The family council was made the *parliament of the Shah family*. There were questions on various aspects which were deliberated by the family members during the process of forming the family council. With the help of this exercise some key decisions were made:

- **Who becomes a family council member?** The approach selected by the family was merit-based inclusion, based on experience and expertise. However, there are other methods of selecting members such as each family branch choosing their representative, elections, or by any other method suitable as per the family's values and structure.
- **Communication:** Since many family members are not actively engaged in the family's business, there is also a reporting mechanism in place which requires the family members actively engaged in business decisions etc. to make requisite disclosures to the non-business family members. For instance, decisions like deciding to enter into a joint venture with a third party and its details. This is essential to ensure harmony among the family members.
- **Induction to Business Board:** Eligibility criteria are set for joining the business. These include minimum educational qualifications, experience, and most of all a clean record. An inclusion mechanism is set in place for joining the Board of Directors ("BOD"); there is no direct inclusion in the BOD for next generation³. This will help achieve clarity when the family
- business is actually run by the collaboration of the second generation and cousin consortium, and also when the cousin consortium steps in completely as the managerial force driving the business.
- **Family speaks as one:** The council is supposed to act as a representative of the family's decisions such that the family "speaks as one". Had there been no consolidation of decision-making in hands of family council, the decisions would be spread across the generations and there may be a case where effectively the "family" would have lost control and unity altogether. Family council ensures that the entire family's vote is in the same direction while also ensuring that the family decides this together.
- **What if a family member needs funds for a contingency?** A Family Fund is created to support education, medical needs, and philanthropy, including a clause for supporting non active family members in case of funding for marriage of children, etc. Shah family has also created an inhouse funding facility, which can be used by family members who want to establish their own ventures such as the younger son of Mr. X, who can get funding from family itself for expansion of his startup. In large family corporations⁴, the family fund is often used as a philanthropic tool to give back to the society.
- **Liquidity measures:** Dividend and risk policies are debated and aligned with the family's risk appetite. **How can the family**

³ This principle is followed by the Burman Family ([Professionals run the show at Dabur](#) by [Business Today](#))

⁴ Tata Trust established by the Tata family ([Philanthropy work as per the website of Tata Trusts Org.](#))

- members sell stake of the family businesses?** No branch of the family can sell shares outside without offering them to the family members first.
- **Expulsion Criteria:** Criteria are defined for removal of a family member from family council as well as business in adverse cases if his/her conduct becomes detrimental to the family's reputation. Mr. A had put forward a clear exclusion from the family business in case a member was found guilty of a criminal offence.
 - **How should disputes be resolved?** The family decided that if consensus isn't reached, decisions shall be made on a one person-one vote basis or shareholding weighted basis. It is ideal for matters of the council to be decided through consensus, however, there should be a mechanism in place for dispute resolution.
 - **Leadership Building:** The third generation is encouraged to participate in discussions, even if they are not involved in management of the business, to develop their leadership skills for future responsibilities. This inclusive approach is practically seen in families⁵ where children above the age of 18 are encouraged to attend the family meetings.

Conclusion

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The Family Council does not run the business — that is the BOD's domain. With the help of the above family practices, it can be understood that these platforms facilitate communication, share updates, and ensure that the family has access to important documents, ensuring transparency and active participation from all family members. It is about creating a safe space where the family tree transforms into one family voice. All of these can be achieved through setting up a legal framework consisting of trusts, shareholder agreements, wills, etc. which will effectively help make this structure legally binding.

Clear demarcation between business decisions and family council decisions ensures smooth operations and preserves the family's legacy across generations.

⁵ This idea was adopted by the Godrej Family (['Flexibility is the key for Godrej family' by Business Today](#))

About **kcm**Heirloom

kcmHeirloom KCM Heirloom is a specialized publication by the Succession Planning team at K C Mehta & Co LLP, focused on inheritance planning, estate structuring, and family business governance. It explores key challenges, evolving regulations, and best practices in wealth succession, offering valuable insights for families, business owners, and trustees.

This publication is exclusively for KCM Network member firms and their clients. While reasonable care has been taken to ensure accuracy, it should not substitute professional advice. Readers are encouraged to seek expert guidance before making decisions.

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