

# GOVERNANCE GUIDELINES FOR FAMILIES IN BUSINESS

Practical guidance for  
family business owners  
and managers





# TABLE OF CONTENT

<b>Foreword</b>	<b>05</b>
-----------------	-----------

<b>01 Introduction</b>	<b>06</b>
------------------------	-----------

Who is this guide designed for?	08
---------------------------------	----

<b>02 The stages of growth in a Family Business</b>	<b>10</b>
---	-----------

Business Structure	13
Ownership Structure	13
Governance Structure	13

<b>03 The Family Business Ecosystem</b>	<b>16</b>
---	-----------

<b>04 Key imperatives and why implementing good governance is essential</b>	<b>20</b>
---	-----------

Manage Conflicts	23
Support Generational Change	24
Support Growth and Expansion of the Business	24
Ensure Continuity and Succession Planning	25

<b>05 What is the impact of failing to address the key imperatives?</b>	<b>26</b>
---	-----------

The breakup of successful family business and the loss of a legacy	27
Negative impact on family harmony & relationships	27
Freezing of assets and family wealth	27

<b>06 What do successful families do to address these challenges - the building blocks</b>	<b>28</b>
--	-----------

Agree on a common vision	30
Decouple family issues from business issues	31
Build a culture of trust, transparency, and fairness	31
Involve the wider family and transitioning the Next Generation	32
Create a set of family rules	32
Integrate key elements of Family and Corporate Governance	33

<b>07 Practical tips for establishing a Family Governance Framework</b>	<b>34</b>
---	-----------

1. Establish relevant Governance Forums	36
2. Constitute a fully functional Board of Directors	37
3. Develop clearly defined rules for Family Employment	38
4. Establish clear rules around exits	40
5. Establish sound Conflict Resolution Mechanisms	42
6. Legalise the Family Constitution	43
7. Determine the appropriate legal vehicle for incorporation	44
8. Implementation	45

<b>08 The Family Constitution</b>	<b>46</b>
-----------------------------------	-----------

1. What is a Family Constitution?	49
2. Why is a Family Constitution Important?	50
3. When should a Family Constitution be drafted / implemented?	50
4. Is the Family Constitution legally binding?	51
5. Difference between a Shareholders Agreement and a Family Constitution?	52
6. What is the process for developing a Family Constitution?	52
7. Is there a Family Constitution template we can follow?	53
8. How often should the Family Constitution be revisited?	53

<b>09 Components of a Family Constitution</b>	<b>54</b>
---	-----------

Family Component	56
The Business Component	60

<b>Appendix</b>	<b>63</b>
-----------------	-----------

<b>Appendix 1</b> Governance Alignment Scorecard	
---	--





## Foreword

Family-owned businesses make up approximately 90% of the UAE's private sector.<sup>1</sup> In Dubai specifically, family businesses play a critical role contributing significantly to its non-oil GDP and employing a substantial proportion of the country's workforce. A large number of Dubai-based family businesses are between 55–70 years old, having been established during the 1950s and 1960s. Some of course date back to a much earlier era. The majority of these businesses will undergo a generational transition in the next 5-10 years.

In recognition of the contribution that Family Businesses make to the economy, the Dubai Government has launched a series of initiatives aimed at promoting the continuity of Family Businesses and creating an ecosystem that supports their activities to the greatest extent possible, while also catering to their unique needs.

In this regard, the Dubai government has launched a number of initiatives as follows:

➤ 1

The introduction of new legislation targeted specifically to Family Businesses

➤ 3

The establishment of a Family Business Dispute Resolution Centre

➤ 2

The establishment of a dedicated Family Business Centre under the remit of the Dubai Chamber of Commerce

➤ 4

The creation of legal systems/structures that aim to govern and sustain family businesses and wealth



**Family businesses play a critical role contributing significantly to its non-oil GDP and employing a substantial proportion of the country's workforce.**

As such, the purpose of these guidelines is to assist family-owned businesses in Dubai to design and develop Family governance frameworks and structures that will ensure smooth succession and continuity of the family business.

The guidelines draw upon international leading practices and where appropriate, reflects the local context for Dubai.

This guide is issued as part of a more comprehensive project that is being implemented by the Family Business Centre, under the remit of the Dubai Chamber of Commerce, and the Dubai Government.

*This guide has been developed as a tool to support families to navigate the complex world of Family Business.*

*It has been developed as an introductory guide on Family Governance matters. Subsequent updates, including additional toolkits and guidelines may be issued from time to time to reflect the needs of an evolving family business landscape.*

*Source: Business Standard (December 2021)*

# 01

## WHO IS THIS GUIDE DESIGNED FOR?





## Introduction

Successfully managing a Family Business requires navigating both the Family and Business including managing the complex relationships therein. There are critical decisions that need to be made, particularly where complex issues overlap.

Balancing the interests and meeting the needs of both the Family and Business is by no means a straightforward endeavour. How does one make the right decisions critical to the long-term survival of the business considering an already complex business environment, with the added challenge of having to do so within the context of a family?

This guide provides guidance on the value and role of a Family Constitution (also known as a 'Family Charter' or 'Family Protocols'), as well as offers practical tips, tools and insights that would support a business owning family in establishing a fit for purpose governance structure.

The guide and accompanying tools aim to assist a business-owning family to map the complex roles and relationship within them, while finding a healthy middle ground where complex issues can be discussed and debated, within an environment of trust and transparency to ensure the long-term survival of the family business.



## Who is this guide designed for?

Many family-owned businesses in Dubai have flourished and succeeded as a result of the vision, foresight and ambition of their Founders. Over the years, these businesses have evolved and grown into mega conglomerates and today, many are at a critical juncture where they are dealing with the complexity of generational change, organisational transformation and an increasingly challenging business environment including new business models that were considered almost unimaginable only a few years ago.

To grow and thrive in such an environment requires family businesses to be nimble and agile, with a special focus on aligning around a vision, a common set of values as well as putting in place a robust governance infrastructure that allows owners and managers to exercise proper oversight and supervision over their businesses.

Family businesses therefore need to embark on an institutionalisation journey that is tailored to their particular needs and which from a governance standpoint seeks to:



**Ensure a clear separation between business and family, by embedding sound governance structures and frameworks to govern their respective activities**



**Achieve outcomes that shape the destiny of the business and which endure beyond the Founders' departure.**

While each family business has unique features and will have their own distinct identity, this guide is intended to support owners of family businesses in Dubai in ensuring sustainable growth through addressing the various governance considerations that set the foundation upon which to transition their businesses to the next generation.

The principles and recommendations included herein are also relevant for specialists involved in supporting businesses in designing and adopting sound governance structures and practices.

# 02

## THE STAGES OF GROWTH IN A FAMILY BUSINESS





## The stages of growth in a Family Business

Various models have been developed to describe and examine the stages that family companies go through during their lifecycle. While there are numerous models with varying theories, every model aligns with one factor: family-controlled companies face specific challenges which require specific solutions.

In Dubai, a growing number of family-controlled companies are preparing themselves to deal with these challenges, and for many of them embedding good governance is an essential ingredient for success.

As such, the choice of which governance mechanisms or tools to adopt depends on where the Family Business sits along each axis of the 'Three Dimensions Model' illustrated right (Figure 1).

The model also highlights an important principle - that there is no 'one size fits all' approach to how family businesses address their governance challenges. Each stage in their evolution highlights a different set of risks and challenges requiring a different set of approaches on how to address them.

In that respect, the model portrays businesses according to their business, ownership and governance structure. It also identifies different business types in each of these three dimensions.

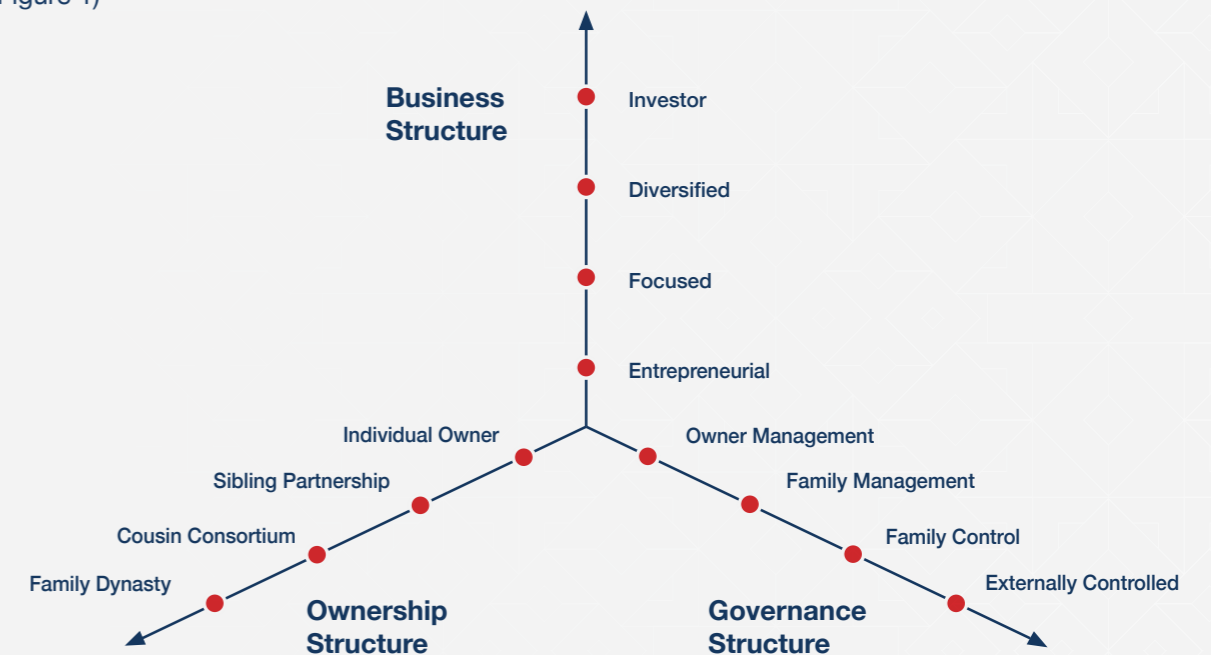
In the 'Ownership' structure dimension the following types are identified - sole owner, sibling partnership, cousins' consortium and family dynasty; the 'Governance' structure consists of owner managed, family-managed, family controlled and family-owned (externally run) family businesses, whilst the 'Business' structure differentiates between entrepreneurial family-owned businesses, focused or diversified family businesses and family investment offices.

Locating a business in the Three Dimensions model allows for making some provisional statements about the family governance framework to be adopted depending on the critical questions and challenges assigned to each business type. If relevant characteristics of the family business change, new tasks and risks emerge, which in turn can then be identified with the help of the Three Dimensions model.

**Three Dimensions Model provides a systematic framework to assess what the best family governance tools might be for a specific business-owning family and its business.**

### Three Dimensions Model

(Figure 1)



#### Business Structure

The vertical axis relates to the business structure. It begins with an entrepreneurial Founder focused on starting a business that thrives on the vision and energy of the Founder. These businesses gradually stabilise and subsequently evolve into a diversified business with a larger business portfolio. Increasingly, Single Family Office Type Models or "investors" are emerging when the Family Business is managed through a business portfolio as part of a Holding Structure.

#### Ownership Structure

In the ownership structure axis, business families evolve from being individual Founder/owner to sibling partnerships, then onto the cousin consortiums and, if they are long-lasting, into a family dynasty of many generations. Given the demographics of the region's Family Businesses, today, many businesses in Dubai, are transitioning from individual owners to Sibling Partnerships - this being a very critical transition given that the business has to accommodate the opinions of many Shareholders and stakeholders as opposed to one key decision maker.

#### Governance Structure

The third axis relates to the governance structure, where the family business evolves from being a Owner/Founder managed business to family management, then to family control (when family members retain ownership control either as Shareholders or board members, but have a reduced role in management). In fact, some family business owners choose to completely separate family involvement in the management of the business and seek to put in place external non-family individuals in management.

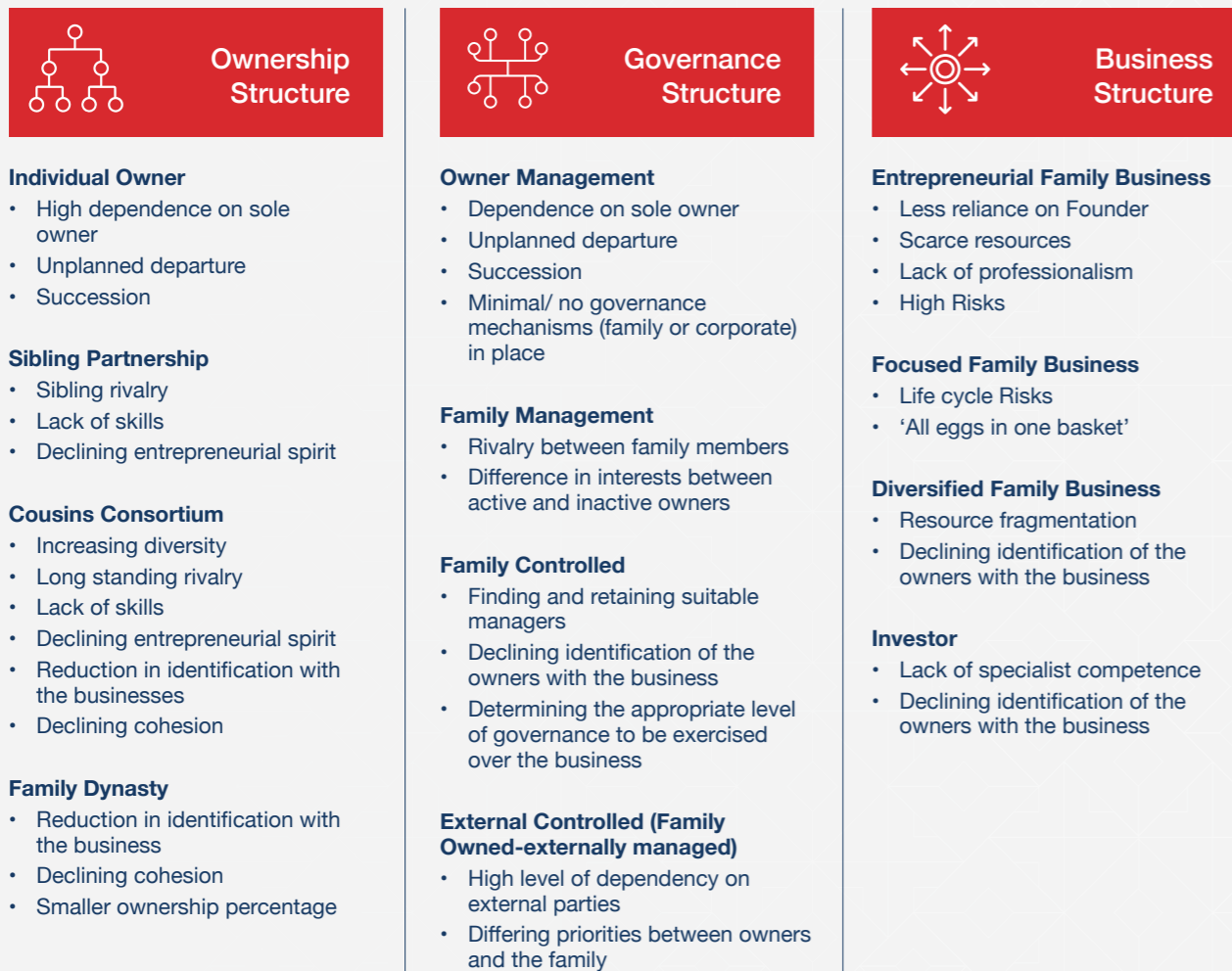
Figure 1 - INTES - PwC Three-Dimensional Model

For instance, in a company managed by a sole owner (Founder), there usually is a heavy reliance upon the Founder in terms of decision-making, scarce resources and a general lack of structure and processes. A sole owner who runs the business himself is unlikely to need formalised conflict resolution mechanisms, family meetings or a Family Constitution.

However, for a “cousins’ consortium”, these tools are indispensable. A Family Council and family meetings are advisable for all business-owning families with owner structures that are moving towards a cousins’ consortium with several family Shareholders. A family dynasty which runs the family business as a family investment will also require a Family Constitution and a family office.

### ► Typical Challenges

(Figure 2)



The key point for family-owned businesses is therefore to determine which governance tools are appropriate to the needs of the business and the family, depending on where each one fits within the framework above (Figure 2).





# 03

## THE FAMILY BUSINESS ECOSYSTEM



## The Family Business Ecosystem

Family dynamics are often driven by how family members perceive their role. The three-circle model clarifies, in simple terms, the three interdependent and overlapping stakeholder groups that comprise the family business ecosystem: family, business and ownership. As a result of this overlap, there are seven interest groups present, each with its own legitimate perspectives, goals and dynamics. The long-term success of family business systems depends on the functioning and mutual support of each of these groups.

Family members' views will differ based on their personalities but also based on where the individual family member is positioned within the three circles. Some family members will be active Shareholders involved in running of the business while other family members may just be passive Shareholders. However, there can be a huge communication issue. When you are actively in the business, you understand the business challenges; but when you are not in the business, often nobody provides you with insight into the working of the business. This divergence in knowledge often gives rise to conflicts.

Each of the seven interest groups identified by the Model has its own viewpoints, goals, concerns, and dynamics. The Model reminds the reader that the views of each stakeholder are legitimate and deserve to be respected. No one viewpoint is more legitimate than another, but the different viewpoints must be integrated in order to set future direction for the family business system. The long-term success of family business systems depends on the functioning and mutual support of each of these groups.

A robust Family Governance model will drive clarity in the role and functioning of the various stakeholders identified in the Three Circle Model.

**No one viewpoint is more legitimate than another, but the different viewpoints must be integrated in order to set future direction for the family business system.**

### Three Circles Model

(Figure 3)

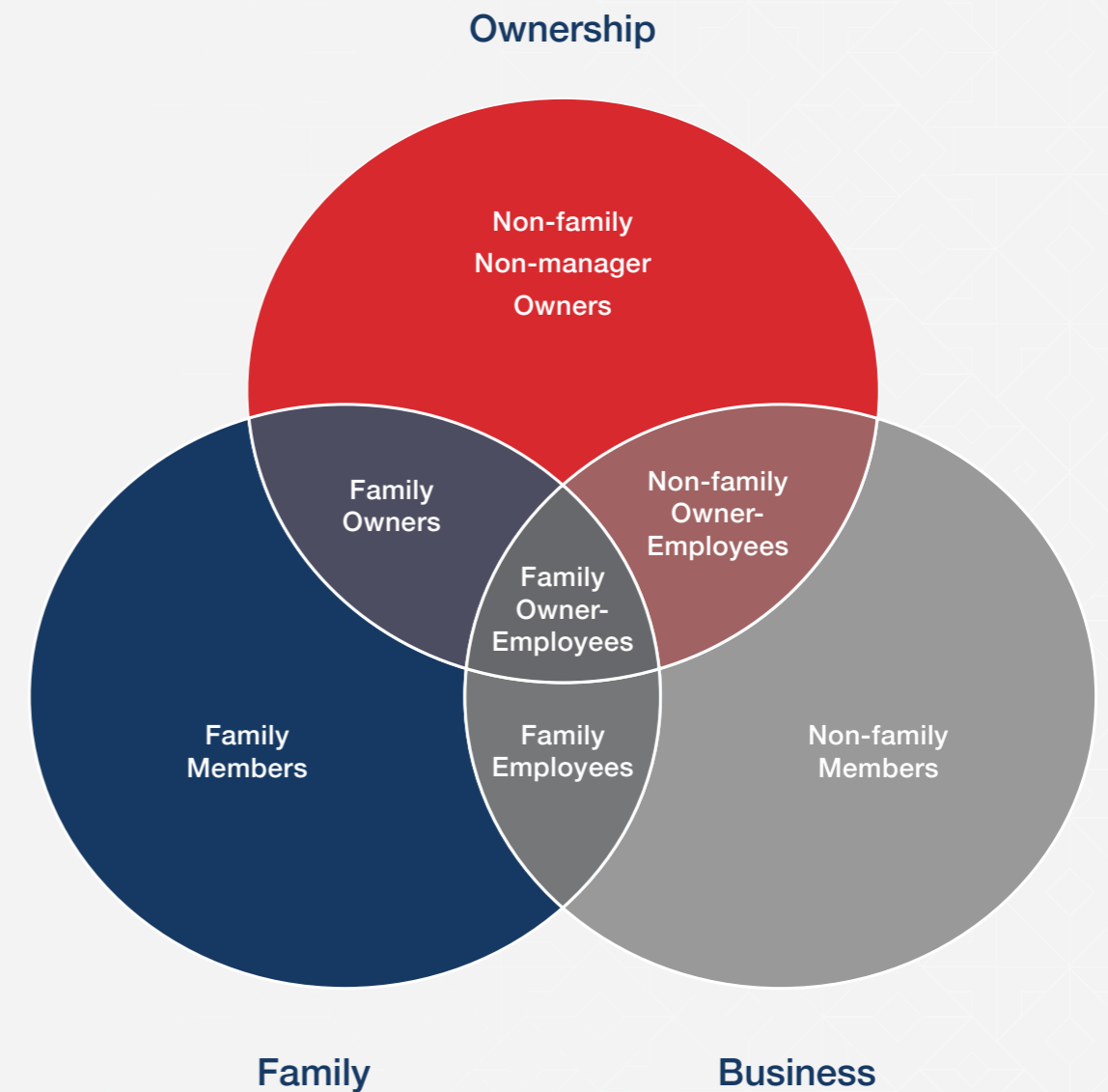


Figure 3 - Developed by Renato Tagiuri and John Davis at Harvard Business School and was circulated in working papers starting in 1978.



# 04

## KEY IMPERATIVES AND WHY IMPLEMENTING GOOD GOVERNANCE IS ESSENTIAL



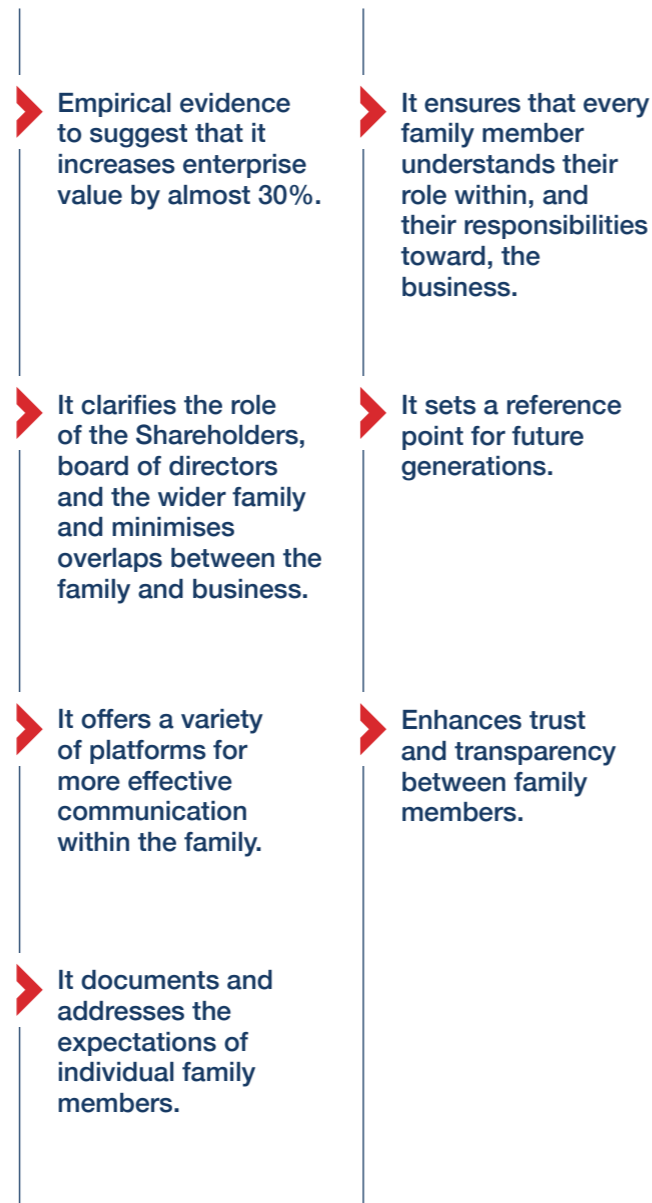
## Key imperatives and why implementing good governance is essential

Embedding sound governance practices is a key imperative for family businesses growth and survival. Ensuring continuity across the generations is a strategic governance challenge that involves achieving a balance between a legacy and renewal of a family's culture, values, and business practices.

At the entrepreneurial stage in a business' lifecycle, governance is typically informal, with support and assistance to the Founder coming from friends, family, and an informal cohort of advisers whose loyalty and deference can be counted on.

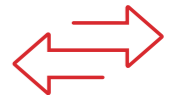
As the size of business and the family grows, it becomes essential to establish more formal governance structures to support the growing needs of both the business and family.

A robust governance framework offers a number of benefits to both the current and future generations.



➤ A sound structure ensures that some of the key challenges as described below are properly addressed.

### Manage Conflicts



In Dubai as in the rest of the Middle East, there are a number of instances where family conflicts result in the breakup of the business, broken relationships, a loss of jobs and loss of reputation that impacts the legacy of the Founder.

In the Middle East in general and also in Dubai, although strong cultural traditions including respect for the elder generation have to a certain extent protected the families from conflicts, it is becoming more evident that a number of families in the GCC are going through some family feuds. However, most of these families have managed to keep their family feuds private.

Conflicts in family businesses are rarely caused by poor business performance; most conflicts arise because the family owners perceive that their needs are not met. Conflicts also surface when situations are unclear or not properly understood. The management of these conflicts becomes the key to survival of both the business and the family.

Indeed, the main reason behind the emergence of conflict in family businesses is the lack of understanding and communication between the three family dimensions, namely the family, owners and management. Understanding and managing these conflicts becomes the key to survival of both the family and the business.

➤ **The main reason behind the emergence of conflict in family businesses is the lack of understanding and communication between the three family dimensions, namely the family, owners and management.**



## Support Generational Change



A large number of Dubai based family businesses are between 55–70 years old, having been established during the 1950s and 1960s. Some of course date back to a much earlier era. The majority of these businesses are transitioning into the 3rd generation and hence, managing the generational change is a critical imperative if the family business is to sustain.

NextGens want to be agents of change, yet they feel their current leaders are not doing enough to help them prepare. They want their voices to be heard on the issues where they can add most value - developing

a strategy fit for the digital age, professionalising the company's management practices, attracting talent and upskilling staff and corporatizing the business, but they are also aware of where they need to gain experience.

A sound family governance framework provides them with opportunities to have their voices heard, for their potential to be seen and platforms through which they can communicate their vision and aspirations to the current generation.



**A large number of Dubai based family businesses are between 55–70 years old, having been established during the 1950s and 1960s.**

## Support Growth and Expansion of the Business



Family-owned businesses in Dubai have evolved into diversified enterprises with interests spread across multiple sectors e.g., real estate, retail, healthcare, construction, automation, and hospitality. With growth comes complexity and with new trends and evolving business models, the need to put in place the building blocks of a sound professional organisation becomes critical to success.

While Dubai family businesses have grown rapidly as Dubai continues to make the headlines in terms of ease of doing business, quality of life, safety & security, healthcare etc., research shows that as the next generation of Shareholders take on the reins of the business, maintaining

the standard of living compared to the previous generation, means that the business needs to grow exponentially, estimated to be in the region of 12%-15% annually for family members to maintain the same level of wealth.

Achieving and sustaining such targets means that family businesses need to put in place clear governance structures, clarify ways of working, embed structure and process to ensure that the business continues successfully on an upward trajectory.



**With growth comes complexity and with new trends and evolving business models, the need to put in place the building blocks of a sound professional organisation becomes critical to success.**



## Ensure Continuity and Succession Planning



Bringing up continuity and succession planning in the family can cause tensions to arise and some families avoid these discussions just to keep the peace. The discussions typically revolve around the future leadership of the business and the family - typically sensitive topics that many families prefer to avoid until circumstances become inevitable.

However, continuity and succession planning are critical to achieving a long-term legacy and include aspects

such as defining when family members can work in the business, how profits are distributed, who serves on the board, and how to plan for next generation leadership. A strategic, well thought-out plan can help provide stability as the family business deals with the stress of change.



**A strategic, well thought-out plan can help provide stability as the family business deals with the stress of change.**

# 05

## WHAT IS THE IMPACT OF FAILING TO ADDRESS THE KEY IMPERATIVES?



Given the importance of family businesses to the Dubai economy, the impact by way of job losses, and impact on the economy is significant.

### ▶ The breakup of successful family business and the loss of a legacy

Unresolved conflicts between family members usually lead to the destruction of the family business in terms of loss of reputation, wealth and economic contribution as the business disintegrates into smaller, fewer effective units. Given the importance of family businesses to the Dubai economy, the impact by way of job losses, and impact on the economy is significant. In addition, there is also the reputational impact that arises when family members air their grievances in the public domain.

### ▶ Negative impact on family harmony & relationships

As family members start fighting with each other, the family cohesion and harmony is negatively impacted. These conflicts end up with family members not only leaving their family business, but also leaving the family and destroying their relationships. Disputes that result in such deep divisions goes against the strong cultural traditions where close family bonds passed on from generation to generation are treasured.

### ▶ Freezing of assets and family wealth

Where there is discord or conflict among Family Members, and such disputes escalate to courts, strict rules on the management of the assets under dispute are often put in place. In certain cases, the assets of the business could be frozen until satisfactory resolution of the disputes.



# 06

## WHAT DO SUCCESSFUL FAMILIES DO TO ADDRESS THESE CHALLENGES - **THE BUILDING BLOCKS**





## What do successful families do to address these challenges - the building blocks

The most successful family businesses in terms of longevity succeed for generations into the future because they understand and adhere to a common set of principles and approaches that have withstood the test of time.



### Agree on a common vision

Without unity of vision, it is only a matter of time until the family finds themselves in conflict. Therefore, the crucial first step that families need to take to minimise conflict is to align around a common vision and formulate a strategy for the business.

Discussions around the family vision and philosophy typically involve understanding and aligning on the family values, the vision and attributes of the Founder and the behaviours that family members are expected to adhere to. These discussions provide a foundation for succeeding generations to understand and appreciate the history of the family business as well as the expectations of the Founders.



### Decouple family issues from business issues

Very few family businesses in the Middle East set clear boundaries between family and business activities. This separation is incredibly important in a Family Business because family members often wear multiple hats - as Shareholders, members of the board and / or as employees in the business. To exercise these roles in harmony with one another requires a clear understanding of the rights, obligations and duties that goes with each role - something that most family businesses struggle with.

This lack of clear separation increases the potential for conflict between family members. Decoupling or separating ownership issues from management issues can help balance personal relationships with contractual obligations and have a more viable family business. Ensuring that operational and management issues are dealt with in the family's governance and legal framework will create transparency and clarity, helping to mitigate the potential loss of trust between family members.

However, families that successfully decouple or separate ownership issues from management issues and keep a balance between their relationship as family members and their contractual relationship as business owners have a more viable family business.

By defining and clarifying how each of these different stakeholders interact with each other and how their roles and responsibilities differ but yet overlap is a key ingredient for sustainability and continued growth.



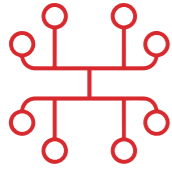
### Build a culture of trust, transparency, and fairness

As has been mentioned earlier, one of the most common reasons why family businesses fail is because of a perceived lack of trust and transparency between family members. When family members believe that they are not being treated fairly, disputes arise between family members leading to a breakdown in communications and in extreme cases, a desire to exit the business.

Building trust and transparency between the different stakeholders is therefore a critical factor for success. Doing so requires creating a clear set of rules that have been discussed and agreed upon and which are deemed to be fair by practical, transparent, and most importantly fair to all stakeholders.

Fairness in the family means that all family members should be treated in a consistent and fair manner. Divisions and fragmentation between family members can be caused by family members suspecting others of benefitting at the expense of the family. The whole family should have a real commitment to fairness. This in turn calls for the Family Constitution to be created with the fairness concept as the key ingredient.





### Involve the wider family and transitioning the Next Generation

Successful family businesses understand that a key ingredient for a sustainable family business is ensuring that the wider family including in laws and relatives, spouses and those not actively involved in the business remain engaged and are positively contributing to improving family dynamics and enhancing the bonds that keep families together.

In addition, aligning the vision of the senior generation and the incoming generation is crucial to the success of the business. It is important that the next generations are involved and encouraged to learn about the business and its operations as early as possible in order to provide them with the necessary experience and to develop a sense of ownership and commitment to the family business. Managing the expectations of the next generation, clear communication and greater transparency are key ingredients to growth and longevity of the family business.

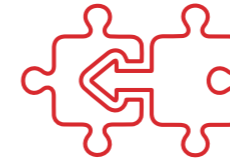


### Create a set of family rules

The creation of a Family Constitution (sometimes known as the Family Protocols) is an important means of establishing a governance framework.

A robust family business governance framework contains elements of corporate and family governance, both of which overlap in key areas. They describe the rules of engagement between the Family and the Business. These rules are vital for establishing strong intra-generational business relationships.

Through the creation of various forums such as the Shareholders' Assembly, the Family Council, a strong board and through addressing key areas that are typically a source of friction among family members - a well-articulated Family Constitution, brings much needed clarity in aligning the key stakeholders in the family business.



### Integrate key elements of Family and Corporate Governance

Both family and corporate governance address the unique governance challenges of Family-Owned businesses. While corporate governance focuses on the business component, by way of designing the relevant structures and processes for the board to exercise appropriate supervision and oversight over the business, family governance addresses the unique Shareholder and family related aspects. Both together address the unique dynamics of a family business.

As such a robust Family Constitution, must integrate relevant aspects of corporate governance, especially matters relating to the board of directors in terms of size, composition, and skills & qualifications.



# 07

## PRACTICAL TIPS FOR ESTABLISHING A FAMILY GOVERNANCE FRAMEWORK

1. Establish relevant Governance Forums
2. Constitute a fully functional Board of Directors
3. Develop clearly defined rules for Family Employment
4. Establish clear rules around exits
5. Establish sound Conflict Resolution Mechanisms
6. Legalise the Family Constitution
7. Determine the appropriate legal vehicle for incorporation
8. Implementation





## Practical tips for establishing a Family Governance Framework

1

### Establish relevant Governance Forums

Providing the various stakeholders in the family business a platform within which to interact and exercise their rights and obligations is an important ingredient in designing a robust governance model. Key among these are the Shareholders Assembly and the Family Council. Through the Family Council or the Shareholders' Assembly, the family usually builds and agrees on a set of rules which address key ownership issues.

The Shareholders Assembly is a platform where the owners of the business meet to discuss matters relating to the long-term vision of the business as well as to set expectations with the board and management. A well-functioning Shareholders Assembly enables the Shareholders to exercise their rights and obligations

The following are practical illustrations of what family businesses should focus on in order to ensure that the key stakeholders in a family business can work together in harmony. Further detailed insights are provided in Section 8 and 9 below.

within a framework that is governed by the laws of the land, but which also provides the flexibility for Shareholders to tailor their expectations and involvement as appropriate to the needs of the business.

Similarly, the Family Council becomes a forum which allows the wider family to be actively engaged in the debate surrounding family issues – the emphasis here being that all family members can participate, regardless of whether they are actively involved in the management of the business, as owners or not. In this way, the threat of family conflict is lessened and the chances of the next generation embracing and supporting the family business are improved.



#### Shareholders Assembly

A platform where the owners of the business meet to discuss matters relating to the long-term vision of the business.



#### Family Council

A forum which allows the wider family to be actively engaged in the debate surrounding family issues.

2

### Constitute a fully functional Board of Directors

A well-structured Board is a key ingredient in establishing a robust governance structure.

For family businesses, determining the size and composition of the board as well as selecting potential candidates poses unique challenges by way of having to bring in outside non-family members to discuss matters related to the business - something that would not have happened during the early years of the business and in most cases, while the Founder continued to play an active role in the business.

While there is no one size fits all recommendation for the size and composition of the Board of Directors, it is

important that a Board comprises a mix of Family and non-Family Members in order to enhance independence and objectivity in decision making.

One way to address the challenge of bringing in non-Family members is to recognise that arriving at the right mix is a journey in time and that there is no compulsion to immediately bring in non-family members. The family must first become convinced about the benefits of bringing in non-family members as people who can offer objective and independent advice as well as be prepared to provide them with the tools and access to information that will enable them to perform their roles effectively.

#### Board Composition Grid

(Figure 4)

Board Composition Grid											
Needed skills experiences and attributes	Director Names										
	A	B	C	D	E	F	G	H	I	J	K
Financial literacy		✓									
Financial expertise			✓		✓		✓				
Industry expertise	✓								✓		
Operational expertise		✓		✓	✓	✓	✓	✓	✓		
Technology expertise											
Governmental/regulatory experience						✓			✓		
Marketing experience			✓					✓			
Board experience				✓					✓		
Family business experience	✓				✓			✓			
Family Shareholder	✓							✓		✓	✓
Gender diversity		✓								✓	
Ethnic diversity				✓		✓					

Unique Family Business Characteristics

**Definitions**  
(Figure 5)

**Independent Director**  
A director who has no employment or other significant ties to the company or the family apart from his or her role as a director. This means the director isn't a significant customer or vendor. Isn't involved in other business ventures with a family member, and doesn't have other relationships that would interfere with his or her ability to exercise independent judgement.

**Executive Director**  
An executive Director is one who is simultaneously serving as a member of the Company's executive management. Executive directors are full-time employees of the company and therefore have two relationships and sets of duties.

**Non-Executive Director**  
Non-executive directors (NEDs) are not employees of the company and are not involved in its day to day running. A good non-executive Director should bring innovation and experience to the boards whilst monitoring executive decisions. The challenge is to remain independent of the business and its day to day operations, while maintaining a level of knowledge that will allow the NED to ask tough, objective questions.

# 3

## Develop clearly defined rules for Family Employment

The employment of family members in the business is an important element in professionalising a family business. It is also a source of considerable tension when there are no clearly defined rules resulting in a lack of clarity among family members on how employment matters should be addressed.

It is common among family businesses that oftentimes, those family members who work in the business do so without clear guidelines, properly defined career paths, a lack of clarity on matters relating to employment conditions such as pay, leave, bonus, allowances, etc. In addition, there is always the risk that some family members may perceive nepotism and favouritism in the way that family members are recruited and compensated. A further consideration is how to treat in-laws and other relatives - should they be allowed to work in the business or not? If they are allowed, should they be treated on par with family members working in the business or should

they be treated in the same way as a non-family member? Leading practice suggests that establishing clearly defined rules and providing clarity on the above areas by defining among others - minimum qualifications, number of years of outside work experience, reporting relationships, performance appraisals and compensation policies, is essential to success. In that respect, successful family businesses adopt the philosophy that "family members' employment in the business is a right to be earned and not a birth right to be assumed".

Figure 6 ( right ) are some of the employment scenarios that family businesses can adopt depending on the dynamics of the family. The choice of which employment model to adopt depends on the family's philosophy and each has their own advantages and disadvantages.

**Family Employment Scenarios**  
(Figure 6)

**Employment for all**  
Under this scenario, family members may be employed in the business with no particular selection criteria. Available positions determine employment and is most often seen during the early stages of a family business when only few family members are involved.

**Selective employment**  
Select family members are allowed to work in the business - usually 1-2 children from each family branch.

**Merit based employment**  
The business selects family employees based on skills, experience and capabilities. As the business grows, it is important to enhance the skill sets of the employees.

**Board Service**  
Family members may serve on the board of the holding company or subsidiaries, the Shareholders Assembly, the Family Council, various committees but not occupy operational or management positions in the business.

**Employment in non-key positions**  
Family members serve in positions other than senior key management positions such as CEO, CFO.

**The new entrepreneur's generation**  
NextGens are not allowed to work in the business but may utilise business capital and resources to invest in new ventures with the family business.

Clearly documented answers to these questions provides much needed clarity to family members and minimises the scope for conflict and misunderstanding.



## 4

## Establish clear rules around exits

As the family business grows and when ownership is transferred to the second and third generation of Shareholders, a number of challenges arise. Key among these is how to manage an exit process in an orderly and smooth fashion that is fair to both the exiting family member and those who choose to remain in the business.

The unique dynamics of family-owned businesses becomes apparent when an owner decides to leave the business either on their own accord or for other reasons. However, it happens, the decision triggers a process that requires meticulous planning and open dialogue. The goal is to achieve a balance between personal freedom and financial security versus ensuring that the future of the business remains intact.

A number of factors could trigger a decision for a Shareholder to exit the business.



### Family considerations

- Perceived unfairness between active and passive family members
- Family conflict
- Issues around family members working in the business
- Choosing future leaders of the family and business (succession considerations)
- Liquidation of assets / cash-out decision for departing shareholder
- Shareholder seeking personal or professional fulfillment outside of the family business



### Business considerations

- Stakeholder disagreement / misalignment on ownership structure and future strategy of the business
- Business decision to change company course, i.e. selling or listing the company
- Deciding between reinvestment of profits and payment of dividends
- Poor business performance and lack of transparency

Families in the Middle East region often discourage Shareholders from exiting the business due to the emotional and financial distress that results from such a decision.

However, if a Shareholder is determined to leave the business, the exit process needs to be regulated with pragmatic professionalism to maintain the company integrity and the family relationships. In a time that is critical for the business there is no room for family feuds. For this purpose, the ideal scenario calls for documented rules which have been agreed and formalised well in advance and describe the exact process to be followed by all involved parties.

The common thread for all exit scenarios - they all call for a valuation of the business in order to be able to assess the current company worth as well as the projected future value in order to identify a fair price for the departing family member's shareholding.

**Families in the Middle East region often discourage Shareholders from exiting the business due to the emotional and financial distress that results from such a decision.**



### Key questions that need to be considered include the following:

- What are the agreed mechanisms that regulate the exit procedure?
- How can the interests of both the departing family member and the company be protected?
- How can the shares of the departing family member be fairly valued?
- What is the impact on the business, the departing shareholder, and the family?
- Will the departing family member retain any involvement in the company?
- How should the exit be structured in order to maximize value for the company in the case of a sale to a third party?
- In the case of a departing majority shareholder, should the business continue in its current form, be sold to a third party or be publicly listed?
- How should the exit be structured and timed in order to maximise value and mitigate taxes and other costs for both parties involved in the transaction?

# 5

## Establish sound Conflict Resolution Mechanisms

Family businesses are increasingly creating formal conflict resolution mechanisms which provide a forum where the family members in dispute can air their differences and hopefully resolve the issues in an amicable way. However, in family businesses, emotions often run high which makes it difficult to resolve issues in an effective way.

Therefore, setting up conflict resolution mechanisms to deal with issues depending on the nature of the issue at hand - whether it is family or business related. Typically matters impacting the family issues can be resolved in the following order:



**In family businesses, emotions often run high which makes it difficult to resolve issues in an effective way.**

Where matters are referred to the Conflict Resolution Committee, it is important that the Committee comprises informed, independent, and objective outsiders, who can perform their work impartially, without prejudice or favouritism.

The use of an impartial go-between provides a neutral forum in which the disputants can air their differences without being intimidated. The process is more structured than 'ordinary' negotiation and the results are often longer lasting.

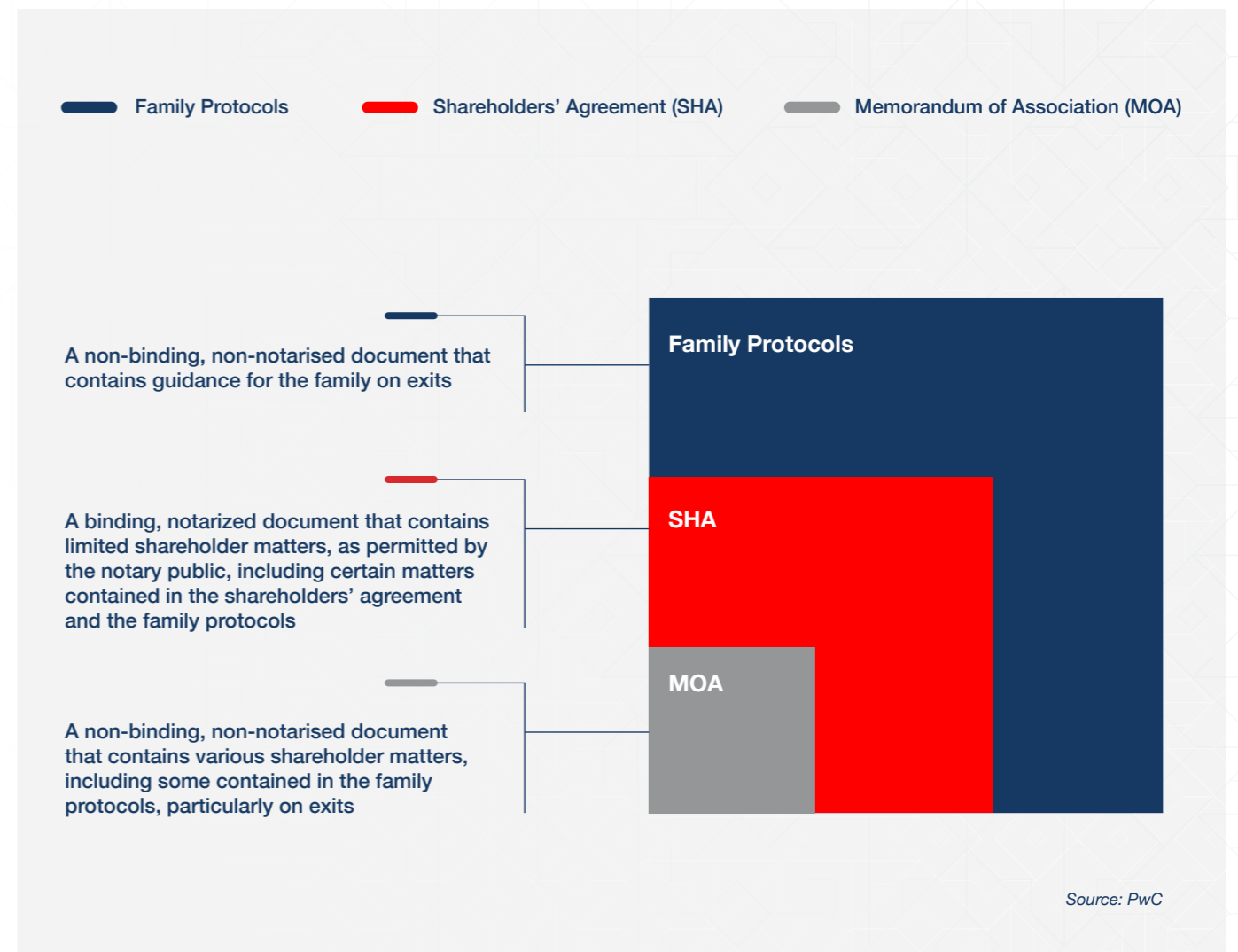
# 6

## Legalise the Family Constitution

A Family Constitution is a moral obligation between Family Members to comply with the rules of engagement set forth in the Constitution. Legalisation of the relevant portions of the Constitution provides a measure of certainty in ensuring adherence to the rules and is one of the key levers to ensure commitment between family members.

There are several mechanisms through which Shareholders can legalise their Family Constitution - principally through a Shareholders Agreement and/ or through the Articles of Association.

The following illustration provides further clarity on the relationship between the Family Protocols and the various legalisation options.



Source: PwC



# 7

## Determine the appropriate legal vehicle for incorporation

The evolution of a family business from operating as a sole proprietorship during the early stages of its inception to determining the appropriate legal form as the business matures is an important consideration for family business owners.

The choice of an appropriate legal form depends on the objectives that the Founder/Shareholders would like to achieve, and each has its advantages and disadvantages.

Various options are available e.g., a Waqf, Trust, Foundation, Limited Liability Company (LLC). In addition to these above four legal forms/structures, families may also consider 2 alternative structures, namely Private Joint Stock Company and Public Joint Stock Company (PJSC).

### ➤ 1

#### Waqf

Al Waqf Al Ahli is a Sharia-compliant endowment where the asset cannot be sold, gifted, or otherwise transferred. However, the revenues generated from investing, managing, or operating the asset may be used for the purposes of the Waqf.

### ➤ 3

#### Foundation

A body corporate with a legal personality separate from that of its Founder (a person who contributes property to a Foundation in order to establish it) and any other person.

### ➤ 2

#### Trust

A legal contractual relationship created by a settlor (person who provides trust property or makes a testamentary disposition on trust or to a trust) either during the settlor's lifetime or upon their death when assets are placed under the control of a trustee (a person appointed to act as a trustee of a trust or holding office as such in accordance with the provisions of the law) for the benefit of the beneficiary or for a specified purpose.

### ➤ 4

#### Limited Liability Company (LLC)

A company in which the number of partners is not less than two persons and no more than 50 persons, and each of them is held liable to the extent of his capital share.

### ➤ 5

#### Private Joint Stock Company

A private joint stock company requires at least two founding members and a minimum initial capital commitment of AED5 million. Shares in private joint stock companies may not be offered for public subscription.

### ➤ 6

#### Public Joint Stock Company

Public joint stock companies are required to have at least five founding members (unless founded by the UAE federal government or the government of one of the seven Emirates that make up the UAE or unless it is the result of a conversion of any company into a public joint stock company), and an initial capital commitment of AED30 million (approximately US\$8.2 million). With the exception of shares in public joint stock companies which are wholly owned by the UAE federal government or the government of one of the Emirates, shares in all public joint stock companies must be listed on a securities market in the UAE (the Dubai Financial Market or the Abu Dhabi Securities Exchange).

Which legal form is appropriate to the business ultimately depends on multiple factors, including its future strategy, the owner's objectives, the appetite to disclose information about the business to outsiders as well as the risks that need to be managed, all go into the decision on selecting the appropriate legal structure of the business.



**The choice of an appropriate legal form depends on the objectives that the Founder/Shareholders would like to achieve, and each has its advantages and disadvantages.**

# 8

## Implementation

A key factor for success is to ensure that the outcomes from the exercise of setting up the Family Constitution are implemented and that the spirit of the Protocols and the rules of engagement are adhered to.

Implementation involves setting out a roadmap and assigning accountability to key family members to drive the process. Typically, this could be a Family Office Manager overseen by a senior family member who can be assigned the task of implementing the Protocols.

Further, Family Businesses that adopt a practice of

periodically reviewing and refreshing the Constitution are successful in maintaining momentum and keeping the spirit of the Protocols alive.

It must be noted that all the above approaches that Family Businesses adopt are linked directly or indirectly to creating certainty, structure, and process around the Family Business, as well as adequately separating ownership from management.

It is for this reason that this guide focuses mainly on the Family Constitution and the mechanisms available to ensure the adequate structures and systems are put in place around the Family Business.

# 08

## THE FAMILY CONSTITUTION

1. What is a Family Constitution?
2. Why is a Family Constitution Important?
3. When should a Family Constitution be drafted / implemented?
4. Is the Family Constitution legally binding?
5. Difference between a Shareholders Agreement and a Family Constitution?
6. What is the process for developing a Family Constitution?
7. Is there a Family Constitution template we can follow?
8. How often should the Family Constitution be revisited?





# What is a Family Constitution?



## 1

### Family Constitution

A Family Constitution, sometimes known as a Family Protocols or Family Charter is a document that helps to manage the relationship between key stakeholders in a family business.

It formalises and defines the relationship between the Family and the Business, the composition, communication channels as well as the roles, responsibilities, and powers of the key governance stakeholders, namely, the:

- ▀ Family Members
- ▀ Shareholders
- ▀ The Board of Directors

The Family Constitution, as a written document, addresses key areas including the Family vision, values, decision-making processes, succession planning, ownership, liquidity, and development of the next generation.

Documenting processes and guidelines to paper and committing to these processes prompts leaders to confront somewhat complex issues and define boundaries, before problems in the future arise, when the family numbers are greater, and relationships are not as strong as in the earlier generation.

The process of developing a constitution has significant value, just by virtue of the fact that it creates a dialogue among the parties and provides a clear set of rules, whereby the key stakeholders of a family business interact with one another.

#### The Family Constitution addresses





## 2

## Why is a Family Constitution Important?

The Family Constitution provides a point of reference for family business members when faced with issues concerning the continued growth and success of the business. **The presence of a constitution is particularly beneficial when major changes take effect, including but not limited to generational change, changes in the shareholding structure, exits, conflicts, etc. in the Family Business.**

Family Constitutions are important as they help in creating certainty and clarity around key matters surrounding the Family Business while also ensuring transparency and communication among the relevant stakeholders.

A properly drafted constitution therefore can help in

- Managing expectations
- Avoiding misunderstandings
- Fostering greater harmony
- Smoother decision-making process
- Specifying roles and responsibilities



## 3

## When should a Family Constitution be drafted / implemented?

Over time, families and their businesses usually become more complex, the number of owners increases as it passes down through generations, while ownership also fragments. This creates the potential for the expectations of many more individuals to diverge and related conflicts may arise.

Ideally, a Family Constitution should be developed when relationships between family members are still cordial and

## 4

## Is the Family Constitution legally binding?



before any triggering events or circumstances so that the provisions in the protocols are crafted from a neutral perspective.

**As such, a Family Constitution should ideally be developed while the Founder or 'Current' Generation is still active in the business, to ensure greater buy-in and involvement among stakeholders.** For example, it is better to create rules on exit and have them in place before a Shareholder wishes to exit rather than once a family member has communicated their desire to exit.

**In a Family Constitution should ideally be developed while the Founder or 'Current' Generation is still active in the business, to ensure greater buy-in and involvement among stakeholders.**



5

### Difference between a Shareholders Agreement and a Family Constitution?

A Shareholders agreement is an agreement entered into by Shareholders in a business. The agreement regulates the way in which the company is managed, how Shareholder decisions are made, the ownership and transfer of shares, Shareholder protection etc.

A comprehensive Family Constitution on the other hand includes among other areas, topics such as family vision and values, family employment, next generation involvement, family office, as well as matters relating to the welfare of the family, unity, cohesion etc. Provisions on such items typically cannot be legalised through the Shareholders Agreement or Articles of Association.



6

### What is the process for developing a Family Constitution?

The process of producing and drafting a Family Constitution is a useful exercise in itself as it will engage the whole family and provide a platform to explore all aspects of the family's dynamic and circumstances.

Further, during the process, any underlying issues that have the potential to cause conflict in the future may be detected during the process. These can be addressed by facilitating meaningful dialogue and debate among Family Members to come to a mutual understanding and agreement.

**It is advisable, and common practice to engage third party external advisors to support the family in navigating the complex issues that arise when defining policies around the governance of a Family Business.** Combining family dynamics with management, ownership, and economic interests is a complex dynamic and a third-party advisor can bring an informed, independent perspective while also supporting the development of unique solutions for the Family and Business.



7

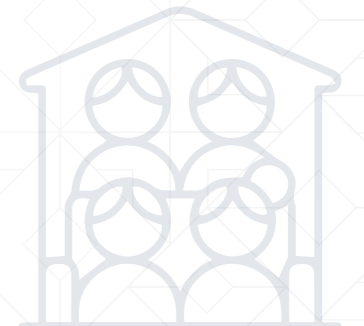
### Is there a Family Constitution template we can follow?

Each family and each business is unique; as Family Constitutions are specifically tailored to address the desired and specific outcomes of a particular family, it is unlikely that any two-Family Constitutions are the same. Nevertheless, some important topics as outlined in the following sections, are commonly covered in the Family Constitution. However, it is the family ethos, philosophy and values that will drive the direction of the policies within the document.

**Even if all business owning families are different and have different needs, successful family businesses do have at least one thing in common; this being that they are properly governed and often, this governance is implemented through a Family Constitution.**



**Family Constitutions are specifically tailored to address the desired and specific outcomes of a particular family, it is unlikely that any two-Family Constitutions are the same.**



8

### How often should the Family Constitution be revisited?

Ideally, a Family Constitution should be a living document which evolves over time to reflect developments in the circumstances of the family and business.

At a minimum, in every generational cycle, the rules governing the family business should be examined and renewed so that all family members in all generations feel that they have ownership of its contents.

**The Family should define a set period in which the Family Constitution should be revisited, typically every 2-3 years, to ensure that the rules remain applicable as well as defining a process for amending the provisions therein.** The period would depend on the stage at which the Family is at in its ownership lifecycle of the business as well as the lifecycle of the business itself.





# 09

## COMPONENTS OF A FAMILY CONSTITUTION





# Components of a Family Constitution

## Family Component

The extracts below outline the relevant provisions that may be addressed as part of the Family component and included as part of a Comprehensive Family Constitution.

Section	Key elements	Why is this important?	Questions to consider
Family Philosophy	Determining the orientation of the Family as to whether they seek to prioritise the sustainability of the business as opposed to well-being of the Family	Family Business Philosophy is an important aspect as the specific orientation of a family drives behaviours within the Family Business.	What are the family views on the balance between “business first” and “family first”?
		For example, it is important to determine whether the family has a family first or business first orientation.	How does the family prioritise between the needs of the Business and the needs of individual family members?
		A family-first or a business-first business philosophy impacts the behaviour of family members and influences their governance approach.	How has the personal qualities of the Founder impacted the family’s values?
Family Values	Drawing up a statement of Values	Values are what bind the family and the business.	Why are we in Business together?
	Developing the Shared Vision	Developing written values and a shared vision sets expectations with respect to actions and behaviour and promotes alignment among the family and the business.	What do we stand for as a Family?
		Defined common values and a vision provides the foundation for family business planning and decision-making and drives policies and practices surrounding the family and the business.	What makes us proud as a Family?
			How do our Family values align with the Business?
Family Assembly	Composition of the Family Assembly	The Family Assembly is a forum where the interests and concerns of the family can be addressed. It is a flexible structure that can be adapted to suit the varying needs of different families and it is therefore important to define clear goals and tasks for the Family Assembly.	What do we want the Family Assembly to take care of?
	Remit of the Family Assembly	As a family grows, the Family Assembly can generate the type of social interaction that will help to create and sustain the “glue” that binds the Family.	Should its role be social, formal, educational or a combination?
	Operation of the Family Assembly		

Section	Key elements	Why is this important?	Questions to consider
Family Council	Composition	Usually, the Family Assembly brings together the wider family which makes it difficult to administer.	What is the role of the Family Council?
	Remit of the Family Council (activities and duties)	It is sometimes beneficial to appoint a separate (smaller) group with responsibility for running the assembly and serving as the link between the wider family, the business and other family initiatives. Some of the functions of the Family Council include:	Should the Family Council be involved in dispute resolution among the Family?
	Operation of the Family Council	Agreeing on processes for succession and development (particularly for Next Gen)	Who can be a member of the Family Council?
	Sub-Committees of the Family Council	Engaging Family Members to build strong relationships	What are the competencies and skills of a potential member?
	Who shall lead the Family Council	Being a forum for conflict resolution	
		Coordinating family welfare activities	
Family Leadership	The process for leading the Family and creating unity.	In a Family Business, leadership of the Family is important to lead and build the cohesion among the Family.	How are present and future leaders of the family identified?
	Define the role and authority of the Family Leader.	The role of a Family Leader typically includes:	Should Family leadership be separated from executive leadership, or be a jointly held role?
	The process for selecting and appointing the family leader as the head of the Family Council	Being a conduit and maintaining communication between the family and the business	Does the Family Leader have to be a Shareholder/bloodline family member?
	Define the criteria for the Family Leader.	Creating the glue that binds the Family	Should the role of family leader be institutionalised?
		Picking up on and conveying/embedding the family culture	
Family Welfare	Define the services that will be delivered to Family Members to meet their basic welfare needs.	Part of responsible ownership in a Family Business is ensuring the needs of Family Members are met. To this extent it’s important to determine the list of welfare related service/s that will be provided to the Family	What services should be provided?
	What funds, allowances can be offered to Family Members e.g., Education Trust Fund, Medical Insurance etc.		How should such services be funded?
	How to care for Family Members that are disadvantaged or that have disabilities	The scope of the services offered is very much dependent on the Family philosophy as detailed above but, in many cases, irrespective of the philosophy there is a minimum standard of living ‘guaranteed’ for Family Members.	How should less fortunate Family Members e.g., those with disabilities, be supported?
			What processes should be put in place to monitor the provision of such services?

Section	Key elements	Why is this important?	Questions to consider
<b>Next Gen Development</b>	The process for developing the next generation as future leaders and owners of the business.	Optimising the likelihood of the continuity of the family business requires business owning families to develop a workable plan to secure next generation involvement. It is important that the Next Gen are also empowered and afforded an opportunity to integrate into the business, either from an ownership or management perspective.	How should NextGens be integrated into the Family Business?
	Integrating next gens and taking on board their ideas to grow the business.		Do we feel that the presence of NextGens in the business/on the board or other appropriate forums is important to the continuity of the business?
	Determine the development agenda for Next Gen Family Members (Next Gen training, courses, etc)		How should we support family members in other entrepreneurial business pursuits (within or outside the remit of the Family Business)?
	The policy in respect of loans (if any) to family members. E.g., a venture program - if a family member wants to start a new business.		
<b>Conflict of Interest / Restrictions on family member private businesses</b>	Determine the general rules with respect to the philosophy on family members personal investments and private businesses	Generally speaking, family members are free to invest their own personal wealth in other endeavours outside of the family business.	Can Family Members set up and operate their own businesses independent of the Family Business?
	Determine their application to different categories of Family Members i.e. Those working in the business / active on the board / passive family members.	However, personal private businesses, while not explicitly forbidden, should be monitored to ensure that there is no conflict of interest with the family business. As such, there must be clearly defined rules to ensure that family members' private businesses don't infringe on the family business or compromise its position in any way.	Can these businesses be in competition with the Business of the Group?
			Can private businesses of the Family do business and transact with the Group? What about if the Family Member works in the Business?
<b>Family Charity</b>	The manner in which family charitable activities should be undertaken, including how such activities should be organised and the causes to support.	Transgenerational motivations are a strong driver for family philanthropy, and the philanthropic expression of family values over time develops into a strong instrument to unite the family.	How will charitable activities be funded by individual family members?
	Determine whether charitable contributions be carried out collectively by the family or should it be the responsibility of individual family members	The overall approach toward traditional Family Philanthropy is often used to maintain the Family Legacy - and is used as a tool to build family alignment, particularly among the Next Generation. Philanthropy is also leveraged as a tool to engage and educate their Next Gen in the family business, particularly from an education standpoint when transmitting family values (transfer of social capital) and promoting family relationships while also teaching Next Gen about financial literacy.	How will the Family determine which causes to donate to?
	Determine whether the family business will contribute to the charitable fund on an annual basis?		How will the family business philanthropy be organized?
	Determine if there is a need/desire to set up formal vehicles such as Waqfs or Foundations to manage their charitable giving.		How will philanthropy be evaluated i.e., how will success be measured?
			What legal vehicle should be set up to support the family's charitable activities e.g., foundation/ Waqf?



Section	Key elements	Why is this important?	Questions to consider
<b>Conflict Management</b>	The procedure for conflict management	Conflicts and misunderstandings almost always exist in families and are the greatest enemy of family businesses.	What process/ mechanisms should be put in place for resolving conflicts?
	The individuals involved in the conflict management procedure	Managing conflicts is key not just to the survival of the business but to the survival of the family itself. Formal conflict resolution mechanisms can provide a forum where family members in dispute can air their differences and hopefully resolve the issues in an amicable way, ideally internally within the Family before they are taken externally.	Should we set up an internal conflict resolution committee made up of independent persons to try and resolve family conflicts?
	Scope of third-party interventions.		How do we separate between family related conflicts and business-related conflicts?
	Defined timeframe/ limit for the resolution of conflict		What about if the Family Member is a Director on the Board?
<b>Family Office</b>	Define the services that shall be offered by the Family Office (FO)	A Family Office provides a means whereby the personal affairs of the Family may be separated from the business.	How will the FO be structured from an organisational perspective?
	Determine:	Sophisticated Family Offices may offer a breadth of services including the management of private wealth, administration services and more.	What services should typically be offered by the Family Office?
	How it will be funded	A Family Office can also support the vision and legacy of the Family, ownership transitions, leadership transitions and successful wealth transitions.	How will the Family Office be funded?
	How it will be managed/ operated How it will be funded		
<b>Constitution Amendment Process</b>	Timeframe for the amendment of the Constitution	To ensure the Family Constitution is a 'living document' a procedure for the renewal, amendment and revision of the constitution is critical. For a lasting constitution, the family needs to anticipate future changes and provide a transparent process for its amendment and revision.	How flexible should the provisions of the Constitution be?
	Define trigger events to lead to the revisiting of the Family Constitution		Who should lead/facilitate the amendment process?
	Determine:		What is the percentage majority required to amend the constitution?
	Who can initiate the process?		
	Who should lead the process?		
<b>Shareholders Undertaking, Confidentiality and Code of Conduct</b>	Who can approve / sign off on any revisions/ amendments?		
	Rules for Family Members on confidentiality and disclosure	The Family Constitution sets out the rules of engagement between the family and the business.	How do we handle Family Business Confidentiality, what about media relations?
	Shareholders' obligations	Just as the family has certain expectations from the business, so too the family is expected to exhibit behaviours that are consistent with the family values and expected standards of conduct.	What happens if someone breaches the terms of the Constitution?
	Rules in case of violation of the Constitution	In addition, with respect to Confidentiality, it is important the Family is aligned in terms of what constitutes confidential information and what constitutes public knowledge / public information and undertake to uphold the confidentiality of confidential information. It is also important to plan in the event of violation and define the ramifications so that Family members are aligned with the repercussions and there is consistency in the way all violators are treated.	

## The Business Component

It is important for family businesses to formalise ownership structures, power, and processes, while also separating ownership and management control.

A Family Constitution that effectively governs the role of Shareholders and the role of the Board of Directors and Management, while also addressing key business policies such as family employment, dividends, and exit provisions can support in ensuring both the long-term success of the businesses but also family harmony.

Such practices allow family members to not only remain actively involved, often adding value through their long-held experience in a specific industry but also to circumvent the challenges that risk destroying Shareholder value and the business itself.

Section	Key elements	Why is this important?	Questions to consider
 <b>Shareholding Structure</b>	Understand the current shareholding pattern	A Family Constitution should clarify who should or should not be a Shareholder in the family enterprise and the roles and responsibilities of those owners.	Shall we limit ownership to bloodline descendants of the Founder(s) or include spouses?
	Determine who can and cannot become a Shareholder		What are the implications for non-bloodline family members?
	How will shares be held in the business		Should shares be owned individually by family members or should the family branches create special purpose vehicles to own shares  Should the family allow the shareholding structure to include adopted children in special circumstances?
 <b>Shareholders Assembly</b>	Role of Shareholders	Ownership within a family firm rests on two fundamental pillars –	How do we keep Shareholders engaged?
	Reserved Matters - Simple Majority and Special Majority Resolutions	(i) economic value and	How are voting decisions taken?
	Frequency of meetings	(ii) emotional value. In many instances, not all Family Members will be in alignment and to this end the rule of the majority should be respected.	What happens in the event of a tie?
	Meeting Procedures	Economic value refers to the number of shares and their monetary value and voting power. Emotional value refers to the identity and attachment associated with the family business and the value that each individual	How do we promote family unity despite the fragmentation of shares (to the greatest extent possible)
		assigns to it, irrespective of legal ownership rights.	
		To this end it is important to meet the emotional and economic needs of the Shareholders and arrive at the appropriate equilibrium.	

Section	Key elements	Why is this important?	Questions to consider
 <b>Board of Directors</b>	Role of the Board of Directors and its Composition	A Board of Directors has an important role in any business, but even more so in a Family Business.	Are we ready for a Formal Board of Directors or should we start with an Advisory Board?
	Criteria for appointment of Directors	A Board of Directors is especially beneficial to a Family Business in terms of:	Do we want to invite independent Members to be part of the board or would we prefer 'insiders' (Family Members and Employees in the business)
	Appointment/ removal of Directors	Objectivity and Independence in decision making	How many Board Members do we want?
	Requirement for Family/ Shareholder Directors	Impartial support and advice on advising on Leadership / CEO succession	What is the appropriate mix between Family and Non-Family Board members?
	Process for appointing Chairman	Supporting in the ownership transition to the next generation	What are the roles & responsibilities of the members of the Board?
	Criteria for Chairman	Supporting the Founder / Current generation in 'letting go' and passing on the baton.	Do we wish to have a two-tier board structure?
	Role of Chairman		How should we integrate Next Gen Family Members into the Board?
	Role of Board Secretary		
 <b>Family Employment Policy</b>	Document Family employment philosophy	Family employment policies within a family business context can help family members understand their relationship with the business and manage expectations. Such policies differ from family to family based on their philosophy and whatever approach is taken has its pros and cons.	What should the process be for employing/dismissing family members
	Determine:	It is important that whatever stance the Family takes, there are clear and defined rules to ensure fairness and impartiality in the approach.	Should family member employees report to a relative?
	Criteria as to if and when family members should be permitted to work in the business	From the business perspective, successful involvement of family members is most likely to occur when there are clear and rigorous criteria with clear lines of authority, accountability and regular performance reviews.	Should family members obtain outside experience before joining the business?
	Initial education requirements to enter the business and professional development		Should compensation levels be based on market value or should family members receive a premium?
	Recruitment process for Family Members		How will the performance of family members be reviewed?
	Remuneration Policy for Family Members employed in the Business		Can Executive Positions be held by Family Members?
	Rules regarding the succession of family members in the management and on the board of directors (recommended or compulsory retirement age)		Do we need a Family Employment Committee? What is its role and purpose?



Section	Key elements	Why is this important?	Questions to consider
<b>Valuation Mechanism / Methodology</b>	The valuation methodology to value shares	In the event Shareholders wish to exit the family business, it is important that provisions are in place that are fair to both the exiting and remaining parties.	How do we ensure a fair valuation?
	Process for appointing the valuation expert	To this end, the provision of a valuation methodology must protect Shareholders who wish to exit by ensuring they receive a fair value for their shares, while also protecting remaining Shareholders to ensure that any payment to exiting Shareholder(s) does not negatively impact the cash flow of the business in cases where the business buys back the shares.	When valuing shares, do we wish to apply a valuation discount?
	The circumstances and timeframes as to when valuations should be conducted		What is the rationale and justification for a valuation discount?
	Who should bear the costs of a valuation?		
<b>Exit Mechanism</b>	Process to be adopted by an existing Shareholder to dispose of their shares	A Family Member may choose to exit the business for many reasons, and therefore pre-defined exit mechanisms can help facilitate the process.	Can departing members retain any involvement in the business?
	Define a mechanism allowing existing Shareholders the right of first refusal	It is important that the process is pre-defined to ensure fairness to both the exiting and remaining Shareholders, without threatening the stability of the business.	How should exits be structured in order to maximise value for the business?
	Company's ability to buy its own shares if none of the Shareholders wish to buy	Often the family buy-out exit mechanism creates an obligation for the exiting Shareholder to propose his or her shares first to the remaining family Shareholder to ensure the business remains in the hands of the Family which is often an objective for regional family businesses.	How can the interests of both the departing family member and the business be protected?
	Minority Protection		Can shares be sold to non-Family Members?
	Payment terms when shares are sold/bought		In what circumstances would sale or external investment be considered
<b>Dividend Policy</b>	Defined mechanism to calculate and declare dividends	Dividends play an important role in rewarding Shareholders but must also be viewed in the broader context of the varying needs of Shareholders and the overall requirements of the business.	What is our philosophy on dividend distribution?
	The process and frequency as to when dividends are distributed	As the control and leadership of a family business transitions to second and third generations, the desire for liquidity may grow as the number of Shareholders increases along with the number of inactive Shareholders.	What is the basis for calculation of dividends?
	Conditions of dividend payments		How do we ensure stability and consistency in the payment and distribution of dividends?
			How much profit should we distribute?
			How should it be calculated?
		How should we balance the need for dividends to Shareholders versus reinvesting in the business?	

# APPENDIX

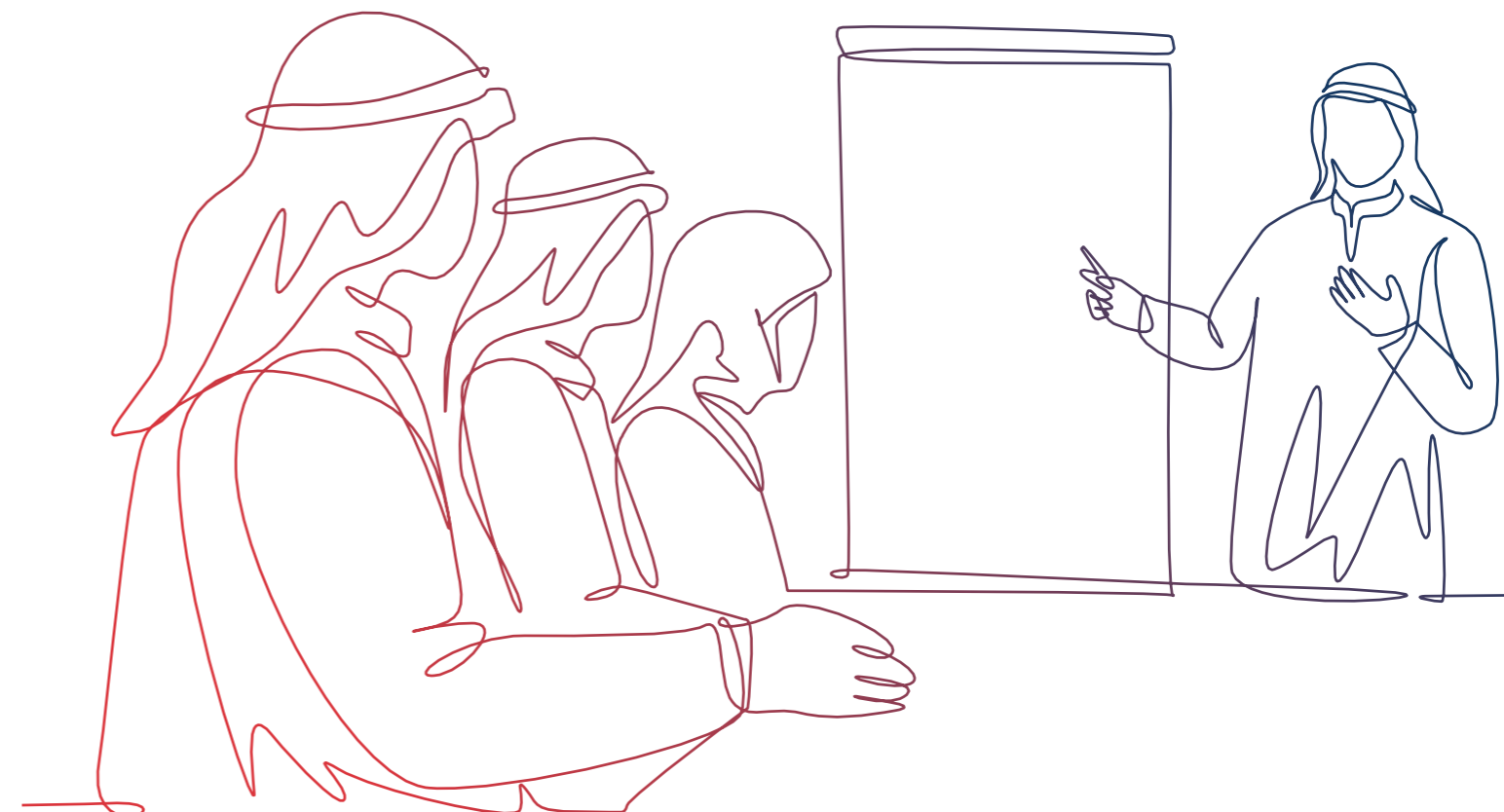


## Appendix 1 - Governance Alignment Scorecard

The below checklist is intended to serve as an aid to assist Family Business stakeholders to gauge the Family's readiness to undertake a Family Governance exercise.

#	Criteria	Yes	No	Unsure
1	Our Family Values are defined, and all Family Members are familiar with them and are aligned.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2	Our Business philosophy reflects our collective Family Values.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	All Shareholders, irrespective of their involvement in the business receive regular reports (annual reports at a minimum) on the activity of the business.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4	Family Members have similar objectives for the business.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	We have a Family Employment policy that defines how all Family members may gain employment within the business.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	The Next Generation Members (over the age of 18) are aligned with the current Generation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	Our Business has an active and engaged Shareholders Assembly.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	Our Business has a formal Board of Directors to oversee the affairs of the Group.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	We have a defined dividend policy and mechanism to declare dividends.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	All Shareholders are satisfied with the level of returns (dividend payments) and in agreement with the dividend policy.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	Our Family has a defined Dispute Resolution process in the event that a conflict does arise.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12	Our Family has an aligned Exit philosophy and is aware of the Exit process.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	There are no underlying issues (past or current) that are currently a cause of tension among the Family.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you have answered 'No' to any of these statements, embarking on a comprehensive Family Governance endeavour would support the Family in collectively formulating and defining policies around the given matters creating certainty and transparency among the Family in relation to family and business matters.



**DUBAI CHAMBER** | **DUBAI CENTRE FOR**  
**COMMERCE** | **FAMILY BUSINESSES**

[dubaichamber.com](http://dubaichamber.com)