# Protecting what's important: strategies and insights to keep wealth in the family

**Paul Bradshaw:** Welcome to the first in a series of videos where we're discussing key concerns on the topic of protecting family wealth. My name's Paul Bradshaw, I'm a Director in the UK Wealth Planning and Advisory team and I'm joined today by my colleague,Karina Challons, who's the Managing Director also in Wealth Planning and Advisory. So Karina, when we think about protecting family wealth, what does this actually mean?

**Karina Challons:** For some families it means ensuring that family wealth remains just that and continues to be for the benefit of their descendants and sometimes for many generations to come. For other families, it could be to maintain a legacy for future generations or for philanthropic purposes, or even a combination of both.

**Paul:** Are all the families that you work with concerned about this Karina?

**Karina:** Some families are concerned, and they want to address the issues. Others think they can deal with it themselves or they believe they've already dealt with it. And it's only when something happens, an event such as a divorce where they've seen a large chunk of the family wealth walk out the door or a major life event, like the death of a family member or a close friend. That's the time they realise they have to do something about this.

**Paul:** What situations do families typically want to protect their wealth from?

**Karina:** The most obvious examples would be a divorce, or it could be creditors attacking a family member or it could be beneficiaries overspending and not pursuing a career and therefore taking more money out of the family wealth. Or it could be even poor investment decisions. Or it could be lack of communication which is resulting in major disputes between the family.

**Paul:** Is there an obvious solution to these possible issues?

**Karina:** You can put in place legal agreements and structures to say protect from divorce and creditors but these in themselves will only take you so far. Over the long term, if there's no clear purpose, no infrastructure, no planning and structure in place, no rules for the family to follow, the wealth can dwindle over time. We've all heard the expression shirt sleeves to shirt sleeves in three generations and this expression exists for a reason.

**Paul:** So what might the first steps you take be when advising a family Karina?

**Karina:** There's no single solution that fits all purposes. There's a process to follow but families are different. What works for one family might not work for another. So, what we do is we look at a number of steps, which may include some of the following – firstly, we would establish the aspirations and objectives of the family, over the short, medium and long term. We'd then determine the family dynamics, where their asset base is and what it's made up of. We need to understand their concerns, their views, their aspirations. Then, we look to put together the advisors. We would then establish the infrastructure, the structures to hold the family wealth that's suitable for that particular family. We determine the ongoing management and monitoring of the structures and the family as well to adapt to changes such as a move to another jurisdiction of a family member, changes in family circumstances, or it could be changes in the law or even the economy. We'll also have to ensure there are processes in place to deal with communication and discord between family members and the larger the families are the more this is important, the more the infrastructure and the controls are important.

**Paul:** It's obviously a thorough process for a family to go through, but what obstacles might you come across?

**Karina:** Families need to work together and follow the rules established. This doesn't always happen. Individuals in families can't just operate in isolation as this can put a strain on the family and impact other members. So despite agreements, infrastructure, the actions of individuals do impact the rest of the family. So, when they're looking at wills, legal agreements, all this needs to be reviewed at the family level and co-ordinated because it needs to be aligned. So individual family members need to take responsibility for this. The other thing is if there's a lack of ongoing monitoring and supervision once the infrastructure and the planning is put in place, this can cause issues. Families evolve, issues arise, and they need to be addressed.

**Paul:** So another interesting point Karina, but what happens if a family member ignores the rules that have been agreed to?

**Karina:** If a family member either purposely or inadvertently ignores the established rules or guidelines this can cause problems. For example we had one client who gave her new spouse a substantial sum of money, which deviated from the pre-nup she had only just signed with him a few weeks before the marriage and was in contradiction with the family rules. And then went to ask the family for an equivalent sum to make up for the sum she'd gifted her husband. This caused a lot of friction in the family and the result was she didn't get the money. For another family, who were very concerned about privacy for security purposes, they found that despite all the planning and infrastructure and the education for the children that they'd put in place, their children went on social media and posted very private information about the family, which made them realise that monitoring and supervision were so important otherwise they wouldn't have spotted this issue for maybe several months to come.

**Paul:** So Karina, it's critical then to have clear lines of communication?

**Karina:** Yes, it is. Lack of ongoing communication between family members and with their advisors can lead to firefighting situations where we had one family member move to the US without consulting any of the other family members nor their advisors. And this particular individual was a beneficiary of a very significant trust which could have triggered very serious tax consequences had it not been spotted at the eleventh hour. Now, this individual didn't realise the impact of his actions, but it taught him and others in the family how important it is to communicate and why the rules are there, and the advisors are there in place to help them.

**Paul:** Those are all really interesting examples Karina. Do you need to involve all the members of the family when you're going through the process?

**Karina:** You start with the first generation if the first generation's created the wealth. So, the founders need to be clear about their objectives, what the purpose of their wealth is and once that's been established, then you need to involve the family members. Clear communication between them is critical so that everyone is aligned and understands their roles and responsibilities.

**Paul:** So Karina, how might a family look to protect its wealth?

**Karina:** Once you have the framework, the structures, the agreements to the family rules and the processes in place then you need to focus on the legal agreements that individual members of the family will need to enter into. Not just the corporate agreements for the family wealth.

**Paul:** That's obviously a critical point Karina. What types of legal agreements would be considered in the context of protecting family wealth?

**Karina:** You need to ensure that legal agreements such as pre-nuptial and post-nuptial agreements are entered into by family members as a matter of course. You also need to ensure that the estate planning and the wills that individuals enter into take into account the family wealth and have been reviewed at the family level to ensure that they don't create issues for the family wealth itself and the broader family.

**Paul:** Is this the same for all families Karina?

**Karina:** No, where a family comes from say a civil law jurisdiction, we will need to understand what matrimonial regimes they will enter into and if there are any forced heirship rules that need to be considered. The choice of regime should be aligned as far as possible with the asset ownership structures of the family. In addition, agreements need to be reviewed and additional ones need to be put in place over the years. For instance, if a family member

moves jurisdiction or receives let's say an inheritance directly, they can't just rely on previous agreements, laws change and therefore they need to ensure that they have new ones in place if those are required.

**Paul:** So is it fair to say that it's not the end of the process once the planning and structure has been completed?

**Karina:** No, it isn't. It's vital to monitor and review the position on an ongoing basis to adapt to changes which occur over time.

**Paul:** Thank you, Karina. If you could summarise in a few words the key takeaways, what would they be?

**Karina:** There are four points I would cover. Firstly, you need to ask yourself, if you died tomorrow will your wealth pass in the way you intend it to and are the infrastructures in place to support this? Is your family and the wealth protected? Have you included sufficient safeguards to protect them and the wealth? And do your legal agreements, be they personal or corporate, reflect your wishes and do they give authority to the right people who have the right experience and knowledge? And lastly, don't put off having these tough discussions. They don't go away, they only become more pressing over time. If you're looking to protect your family and your wealth and want to discuss this, please contact HSBC Private Banking or your Relationship Manager. Thank you very much.