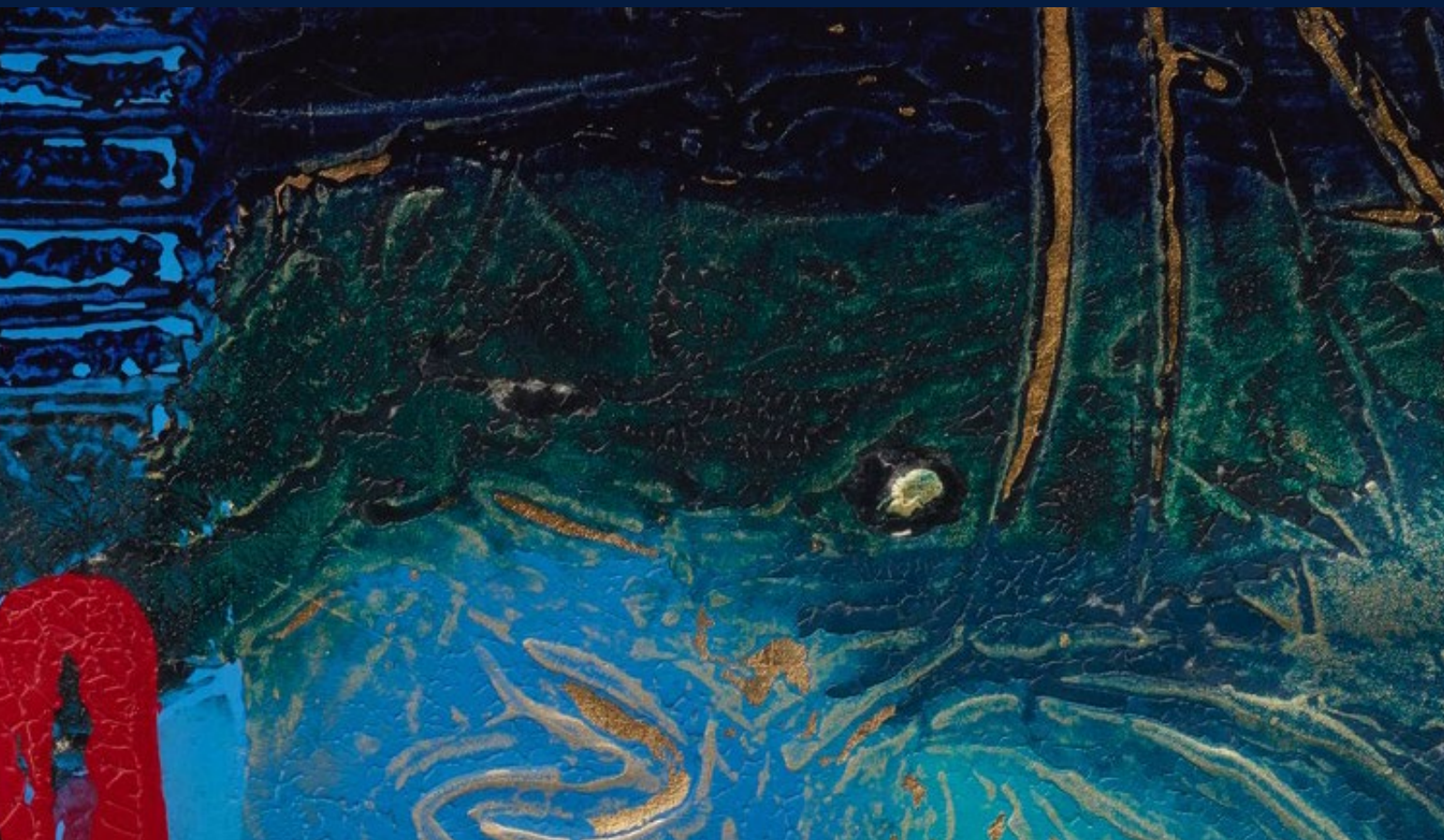


# Clogs to clogs: family constitutions and family disputes



## Clogs to clogs: family constitutions and family disputes

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Many cultures have sayings that the first generation creates the wealth, the second manages it, and the third dissipates it. Within three generations the family goes from “clogs to clogs” or “from stable to stars to stable”.

Modern business families increasingly put in place “family constitutions” setting out their ethos and clarifying the way in which family members are involved with the business.

Such constitutions can make disputes or the dissipation of wealth less likely and help families to manage difficult situations.

### What are the most frequent crunch points?

Certain events can cause tensions to arise in family businesses: the retirement or death of the founder, divorces, periods of economic disruption, disagreements over strategic decisions or a disruptive “black sheep”.

Founders can, understandably, find it difficult to retire. Discussions about succession will, therefore, be put off, creating unrealistic expectations and disputes.

### What are family constitutions?

Family constitutions are documents which evolve as the family grows and develops; the heart of which captures the family’s business values. The five principles of the Mars family, for example - quality, responsibility, mutuality, efficiency and freedom - guide decisions and unite the family and team.

### Constitutions will address important and sensitive topics, for example:

- should the business, and key roles within it, always remain within the family?
- how do family members receive distributions, and share in profits?
- how will succession be handled?
- the role of the “next gen” in the business.

### How can they help?

By working towards setting out their core values, and the agreed “direction of travel”, the family can establish a framework within which to pursue a shared vision of the future.

There are often a number of individuals who will be involved in any successful family business, for example the family office, directors of the business, trustees and trusted advisers. It is important they understand and affirm the central values and objectives of the family.

Family constitutions also frequently include dispute resolution clauses, ensuring the signatories initially attempt mediation in addressing any issues, and thereafter, arbitration.

## Conclusion

The Institute for Family Businesses has identified four types of “capital” that can accumulate over the generations – family capital, people capital, financial capital and social capital. Family constitutions aim to safeguard this capital, so that the next gen is in a position to develop it in the future.

A family constitution cannot, on its own, prevent tensions or disputes. Constitutions need to be part of a suite of other trust and corporate documentation, and need to be coupled with regular family meetings.

However, a constitution that has been carefully considered, and agreed, by the family can bind together the different parts of a wealth holding structure. This can often help in dealing with the difficulties that inevitably arise and avoid any return from the stars to the stable.

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