

What happens if my business partner dies?

Business people often assume that they have provided for their business succession by drafting a will. However, wills are limited to providing what happens to personally owned assets on the death of the will maker. Often business interests are held in other entities such as family trusts or companies. Therefore, these cannot be disposed of via a will.

Even if your will does effectively enable your spouse to inherit your business interest, where business ventures are run with others, this can be disastrous. It can effectively mean that the deceased partner's spouse suddenly finds themselves in business with the remaining business partner. The spouse may have no skill or interest in the business, but will often need the income stream from the business or the value of the equity to live on.

The remaining partner may not be able to buy out that spouse and may not be prepared to pay that spouse if they cannot make the same contribution as the deceased partner.

Where business partners wish to provide for each other to take over the business on the death of one of them, the business partners should enter into an appropriate agreement when the business is running well (and they are still speaking to each other).

Here is a simple example:

Bill and John are in business together, each take life insurance cover and they prepare a business succession deed.

Some time later, Bill dies. His wife receives insurance proceeds equal to the value of Bill's share of the business.

Under the terms of the succession deed, John takes over Bill's share of the business without having to borrow large sums of money to do so.

Bill & John



Such business succession is an example of a situation where both partners are happy for their business partner - as opposed to a purchaser or a family member - to take over their interest in the business.

Whilst a business succession deed deals with business succession in death and permanent disability, it is important that people in business together enter into a shareholders agreement to cover what happens if one of them wants to leave the business or there is a falling out.

We are able to guide and assist you through the process of discussing the relevant issues to be addressed, arranging insurances and liaising closely with your solicitors for preparation of appropriate agreements.