Questions to ask for Business Protection

Conversation starters and questions to ask when talking to your clients about business protection.

Questions to ask for Key Person Protection

If a key person were diagnosed with a critical illness or died, how would the business cope?

What does the business do?

You need to find out who's responsible for the 4 key business functions:

- Leadership
- Production of service or goods
- Financial control
- Sales and marketing

Are there any other business functions that are vital to the success of the operation?

Like research and development, or someone running the orders department? If any of these people were no longer in their jobs because of illness or death, do you have an employee who could step into the role?

How much turnover/gross profit does each key person contribute?

If you don't have a replacement for them, what would the consequences be?

What impact would the loss of a key person have on:

Company finances

- If gross profit fell, would the business be able to meet its fixed costs?
- If yes, then what would the effect on net profit and directors' remuneration be?
- What would the effect on the business value be?
- If the business wasn't able to meet its fixed costs, it would need additional funding – where would this come from?
- Would the company be able to pay its loans?
- In the current climate is the business confident that the bank would support its borrowing requirements?
- Is there any danger of the bank calling in or reducing the business's overdraft?
- What would the effect on cash flow be if this happened?
- If the bank did lend, would the business need personal guarantees for second charges on residential property, from the directors, for example?
- Are the directors (and their spouses) willing to offer this?

Customers/clients

- Would they remain loyal if quality or service levels fell?
- If not, what would the effect on turnover and gross profit be?
- If customers stopped trading with the firm, how would this affect their behaviour as debtors?

Trade creditors

Things to consider so you can get the right protection in place:

- How would this affect their confidence?
- Would they continue to offer the same terms?
- If not, how would this affect cash flow?
- Would the business still be able to get creditor insurance?

Director loans

- Do any of the directors/partners have outstanding loans to the business?
- If so, will these need to be repaid to the estate on death, or to the outgoing director if he/she has to retire through ill health?

Competitors

- Could the competition take advantage of this situation?
- Could they target existing customers and key staff?

For Ownership Protection – Limited Companies

- Who owns the shares in the business?
- If a shareholder were to die, what would the estate want to do with those shares?
- Would the survivors want to buy them back, or would the estate want to keep them?
- Have they had the business valued? If not, what value would they put on the business?
- If x died and they needed to raise £y, where would this money come from?
- Would the bank be prepared to lend this money, especially where the shareholder was a key worker in the business?

Assuming the money couldn't be raised:

For a majority shareholder – over 50%

- Could the estate come into the business to draw income?
- If they could, would they have the skills to contribute to the profit they're withdrawing?
- Could the estate sell a controlling interest in the company to a competitor? Is there anything in the articles to stop that?

For a minority shareholder

- If the survivors can't or are unwilling to buy the shares, how will the estate get income? Would the company still pay dividends?

For Ownership Protection – Partnerships and Limited Liability Partnerships (LLPs)

Is there a partnership agreement?

If not:

- Are they aware that on death or retirement the partnership would be dissolved by the Partnership Act 1890?
- Are they aware that the value of the assets could have to be paid out to the estate? Where would the money come from?
- Are they aware the assets would be split equally even if each partner had contributed different amounts?
- If the survivors can't raise the money, the estate could take the profits due to the estate or demand that interest is paid on the value – would that be a problem?

Is there a membership agreement?

If not:

- The Limited Liability Partnership Act 2000 will specify what happens.
- The estate will be entitled to receive anything that would have been due to the member.

If there is a partnership or membership agreement

- What does the agreement provide for on death, or if a partner or member has to leave due to serious illness?
- Does it provide for the partnership share or membership interest to be paid out?
- How is the partnership share or membership interest valued?
- How would the partners or members raise the capital needed?
- What would the consequences be if the money couldn't be raised?

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