

# Avoid turning disagreement into disaster

If you and a business partner fall out, the result can be a personal and financial catastrophe. Stay on the right track with forward planning and expert help.

Many successful businesses are born of a fantastic idea between partners or friends who share a passion, but it only takes a dispute between them to send the company's fortunes crashing.

Perhaps one partner wants to take the business in a different direction. Sometimes a partner under financial pressure wants to leave the company or sell his or her shares. Often, family members become a little too involved in the business and tip the balance.

Early on, it can be hard to imagine battling your partner in lengthy and expensive litigation. But Chris Moore, partner in commercial dispute resolution at Hicksons Lawyers, sees this eventuality more than ever, particularly among small-to-medium-size businesses.

"At the beginning, everything's great, everybody trusts each other," he says. "Then as things go along, differences emerge, especially when other family members get involved."

Conflict is almost inevitable in business. The best way to stop disputes becoming costly and time-consuming is to draw up a shareholder or partnership agreement at the start. Moore describes such agreements as "commercial pre-nups".



They can include details such as how much everyone is paid; what everyone's duties are; how much other family members are involved in the business and what they do; and what happens if there's a dispute.

If one partner leaves, how soon can he or she set up shop around the corner? Can they sell their shares to anyone – or does the other partner get first option? Non-competition provisions and exit strategies should be included, Moore says.

An early agreement is especially important when partners own equal halves of a company.

"If they're 50 per cent shareholders and they run into problems, then you can't pass a resolution because it's always a tied vote,"

Moore says. "This can be critical if there's a new contract that one party wants to enter into or there's a payment due to someone which one of the partners doesn't agree with."

Although it's best to draw up an agreement at the outset, it's never too late to put one in place. Moore suggests you approach your business partner in a positive manner.

"You can say, 'This business has been going well for a couple of years. Let's make sure its future is assured and let's agree on some of these things in a more formal way.'

Unfortunately, by the time partners run into problems and mutual trust is gone, it's often too late.

At that stage it's about damage control and trying to negotiate an agreement to settle the dispute outside of court.

"There are many dispute-resolution mechanisms and they can be tailored to the individual case," Moore says. "I always think I haven't done my job properly if we end up in court.

"With the assistance of the lawyers, both parties should be able to assess their own risks and determine a sensible commercial resolution."

If you cannot agree on an alternative resolution method, you are staring down the barrel of legal proceedings, which incur costs beyond the grasp of most small-to-medium businesses and the people involved.

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