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Conversations with the next gen: areas of development and consideration advisers are talking about

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More and more clients and advisers have been discussing the "next gen", be they Millennials, Gen Z or even the future Gen A. So, why is this a topic raised arguably more than in previous decades, and what considerations should advisers be ready to discuss over the coming years?

One reason is likely due to the sheer size of the inter-generational wealth transfer anticipated in the next two decades. According to various statistics, it could be the largest wealth transfer that advisers will have seen, with many trillions of dollars of assets being inherited or transferred.

As such, it will stand advisers in good stead to be talking about some of the issues already being seen as well as those likely to come.

Why talk about wealth?

Differences in attitude

Any adviser will know there are cultural and generational differences in attitudes towards wealth which can differ widely. As a result, how advisers raise the topic and the key areas to cover with clients can also vary.

From a legal perspective, areas of importance for all generations which we have often seen to be misunderstood by clients include:

- the ownership of assets - for example, assets in a trust no longer belong to the settlor and do not legally belong to beneficiaries
- whether assets can be divided
- whether any form of involvement is possible or necessary - is any family member

experienced enough to be involved?

- what flexibility is there within the wealth planning and structuring, and was it designed for long or short term aims

Advisers may need to be delicate in how they approach the topic of wealth and the transfer of wealth between generations. But it will be more important than ever to ensure both the current and next generation understand how wealth is held, how it can be dealt with, and who it can ultimately benefit.

In order to achieve this, discussions with the next generation might be required. Historically, not all clients have been comfortable with this idea. However, having these conversations can help avoid future disagreements or unmet expectations.

Changing demographics

The next generation does not look the same as those that have come before - from an increase in female entrepreneurs and women in business to families that are far more international, with family members in different countries, holding different citizenships, and with cross-border investments. Socially, there is also a greater percentage of unmarried family members and children born out of wedlock among the next gen.

These changes in demographic increase the number of factors advisers need to be aware of, including risks arising from divorce and changing tax and transparency laws. Navigating this is becoming increasingly tricky, and cross-border advice can be a fundamental part of private wealth planning.

However, unless advisers and families discuss these issues, advisers will be unable to holistically advise their clients, which has become increasingly important. Accordingly, it is vital to teach the next gen why all of these factors are important and about the tax and transparency requirements in which we now operate. By doing so, the next gen can best understand how wealth is held, be in a position to understand the advice they need to obtain moving forward and make their own decisions.

How much information is too much?

While the generational shift is opening up discussions about wealth and the next generation's interests, it inevitably raises the question: who should be aware of the wealth, and when should they be told?

In some cases, the next generation are well into adulthood, capable of coping with the knowledge that they may receive significant wealth. But in others, the next generation are young, and this knowledge could have a fundamental impact on their life, not always for the better.

In the Jersey case of *In the Matter of the C Settlement* [2017] JRC 035A, the Court agreed with the trustees and mother of a beneficiary of a trust of significant value. They decided informing a young adult of the asset value in the trust could have a detrimental effect, and it was in the beneficiary's best interest not to be told at that age.

On the other hand, there can be times when it is appropriate to bring the next gen into discussions to educate them on the structuring, its purpose and how the wealth is to be dealt with in years to come. This can better prepare them for when they will be at the "reins".

What is appropriate will therefore need to be considered on a case by case basis, taking into consideration the circumstances, any terms in the relevant structure documentation and fiduciary duties surrounding confidentiality where applicable.

How is the wealth invested?

Crypto and developing asset classes

Surveys from major investment institutions have found that a significant number of family offices are interested in and actively investing in cryptocurrencies and other developing asset classes. The reasons often given relate to the next generation's interest in such asset classes and the family offices' desire to engage with the next generation. This is a clear example of how the change in attitude often seen among the next gen impacts how wealth is managed.

Alongside cryptocurrencies and intangible tokens, numerous tangible asset classes are growing in popularity. We have seen one developing area of investment in the number of funds and companies involved in the recreational cannabis sector, particularly in foreign jurisdictions. These funds and companies are often promoted and led by the next gen, who are more interested in this area of a potential growth industry.

Whatever the developing asset class may be, advisers, family offices and service providers need to recognise where they may or may not have the expertise and the risks and potential liabilities they may expose a structure to before agreeing to invest. Finding the right expert on such asset classes and obtaining appropriate advice will be imperative as new and fast-moving asset classes grow in popularity.

Impact and ESG investing

Global assets under management in impact investments are now estimated at over US$500 billion and increasing rapidly, with more than 1,300 asset managers, development finance institutions, foundations, banks, pension funds, family offices and other types of investors allocating funds to this space. [1]

Some have argued that this is a result of a generational change, with the next gen being more focused on their money doing good as well as growing through investment. Research by Gibson Strategy in 2020 clearly shows the generation focussing most on impact investing is the under 40s. Others have argued that this is due to socio-economic pressure on governments and companies to limit any negative impact they have. Although, it is still the next generation who will be most heavily affected by decisions governments make now.

Whatever the reason is, this trend will continue. [2] In fact, it will become more than just a trend - it will become the norm. We are already seeing an increased demand for advice on the ability to vary structures to allow for impact investing strategies. Whether an existing structure will be appropriate for adaptation is another question. Advisers may need to consider alternative or new structures specifically designed to meet the aims not catered for in the current structure.

To avoid these issues, it will be worth exploring whether to include impact investment related provisions into constitutional documents and whether investment guidelines and parameters should be put in place from the outset.

Investment restrictions

For many years it has been common to include investment restrictions in governing documents, often for religious or cultural reasons. However, we have seen an increase in the desire for investment restrictions to be included as the next generation voice their opinions on what they are uncomfortable investing in from a social or environmental perspective. These include "damaging industries", such as weapons manufacturing, natural resource exploitation or industries that cause extensive damage to the environment.

Building these restrictions into structuring documentation from the beginning can help limit any arguments surrounding the duties of service providers and the inclusion of such restrictions. These will need to be sufficiently clear and administratively workable. Service providers must be aware of these restrictions, implementing procedures that ensure they are adhered to and appropriately monitored.

What is the wealth used for?

Philanthropy

Traditionally, philanthropy is understood to mean giving away wealth through donations. However, the next generation is often less focussed on one time donations in favour of long term involvement in philanthropic causes or a philanthropic way of life. As a result, we are seeing a rise in establishing charitable or philanthropic vehicles that allow the next generation to be actively involved. For example, we have advised on the establishment of charitable trusts with family members acting as trustees (together with charitable experts and professional trustees) or as members of a distribution committee.

However, it is important to ensure there isn't a blurring of the lines between:

- structures established to benefit family members
- and established philanthropic structures in which family members are involved

To blur the two can lead to conflicts of interest, unnecessary exposure and potential liability.

Looking to pay more than their fair share

In some cases, estate planning structures will provide a fiscal benefit. Although this may not have been the driver for the structure's establishment, it may be one of the results alongside the main aim, such as asset protection or avoidance of the division of assets. However, some advisers are seeing a shift in attitude as the next generation actively looks to pay more than they are required to (as was the case in *In the matter of the May Trust* [2021] JRC 137). Most often, this is a way to contribute a greater proportion to government funds in the hope of being put to good use for the benefit of society.

In recent years, this has led to discussions surrounding whether to:

- keep structures in the long term
- have certain individuals remain within the class of persons capable of benefitting from a structure, or
- restructure or terminate structures so voluntary payments can be made to the government

How can we best deal with the wealth?

Being prepared

Although it is by no means the most common outcome seen, it is, unfortunately, the case that disagreements arise among the next generation. In particular, where the wealth to be inherited or transferred includes a business or chattels, these disagreements often centre on the share of specific assets individuals will receive and when.

Being as prepared as possible can help smooth the transition. While there are no crystal balls and being overly prescriptive can equally cause issues, it is not uncommon to advise clients to consider some form of family governance document or family charter. This document can set out how family members can be involved in decisions regarding the family wealth and how the wealth will be managed in a way that should limit disagreements between individuals.

Ensuring the transferred wealth is used as intended and not spent in resolving disagreements must ultimately be in everyone's best interests.

Making assets work all around

In some cases, the current generation has invested their wealth in tangible assets of particular interest to them, for example, collectable cars, art or wine collections. But what if fast cars, Picasso, and Chardonnay are not to your heir's taste?

Like many other tangible assets, investments can be fashionable and become outmoded. What was seen as key to a family's portfolio 20 years ago might now seem outdated to the next gen. More clients have sought advice on how tangible assets can be held but "made to work" to fund projects of interest to the next generation or even to provide an income where previously they had just accumulated a capital value in the family's portfolio of assets. One solution increasing in popularity is using tangible assets for leverage purposes, for example, leveraging art collections to provide capital for the next generation to invest in other assets without selling the unique tangible assets that have meant so much to the current generation. This method takes careful planning and consideration, not least in respect of where the collection is situated. However, if everything aligns, this can be a sensible way of ensuring additional growth in value while preserving the assets.

Asset protection

Much of this article has focussed on the transfer of wealth from one generation to another. But in many cases, the wealth is being generated by the next gen with an increasing number of successful young entrepreneurs and business owners.

For them, having been brought up in a volatile time, with economic crises, political instability and the COVID-19 pandemic, protecting their wealth in an increasingly litigious world and ensuring it is protected for the next generation after them is their aim. For others, the high risk areas in which they operate, such as the crypto market, drive them to seek stability and protection for their wealth outside their market. Therefore, we have seen a significant number of younger clients with asset protection at the forefront of their minds when looking to establish structures.

Offshore jurisdictions provide several well-regarded solutions designed for asset protection, and advisers need to be aware of the various options that could best suit the next generation depending on their legal and tax position and attitude towards wealth.

Family offices

For the next gen wanting to be involved in decisions regarding the family wealth, family office structures, private trust companies, and private trust foundations are alternative ways for high net worth individuals' wealth to be managed, together with their personal affairs in the case of a family office.

The degree of control and flexibility family office structures provide have made them increasingly popular throughout the world over the last decade. Due to this, several offshore jurisdictions have become particularly popular, depending on their location, the employment legislation, office space and the legal system available. Again, advisers need to be able to discuss the pros and cons of the different forms of bespoke structure or family office arrangements that could suit the next generation best and the locations best suited for this increasingly mobile generation.

Summary

The next gen will continue to prompt changes in how we see and deal with wealth in a way that will permanently shift attitudes. These changes are arising quickly, and advisers who open these discussions place themselves and their clients in a better position for the future.

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[1] Global Impact Investing Network 2019

[2] PwC Global NextGen Survey 2022

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Meet the Author

Catherine Moore

Partner

Guernsey

E: catherine.moore@ogier.com

T: +44 1481 752364

Key Contacts

Anthony Partridge

Partner

Cayman Islands

E: anthony.partridge@ogier.com

T: +1 345 815 1810

Katherine Neal

Head of Employee Incentives, Private Wealth Jersey

Jersey

E: katherine.neal@ogier.com

T: +44 1534 514272

Matt Guthrie

Partner

Guernsey

E: matt.guthrie@ogier.com

T: +44 1481 752342

James Campbell

Partner

Jersey

E: james.campbell@ogier.com

T: +44 1534 514230

Gavin Ferguson

Partner

Guernsey

E: gavin.ferguson@ogier.com

T: +44 1481 752307

Josephine Howe

Partner

Jersey

E: josephine.howe@ogier.com

T: +44 1534 514201

Marcus Leese

Partner

Guernsey

Hong Kong

E: marcus.leese@ogier.com

T: +44 1481 737152

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