



# Franchising

**Your Franchise: protecting a valuable asset**



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## **Your Franchise: protecting a valuable asset**

As a franchise owner, your immediate focus will naturally be on working hard to build up your business. In the everyday hustle and bustle of running, growing and developing the business, planning for the future for you and your family can be neglected.

Owning a franchise is a major investment for most people; much of your time and your money may be tied up in the business. A successful franchise business can be a valuable asset in its own right, and as your business grows, so will its worth.

But what if something unexpected were to happen to you? You **cannot** take it for granted that your loved ones would automatically benefit from your franchise should anything happen to you, but some relatively simple planning can mean that all your hard work won't go to waste.

### **Planning for your family's future**

The first planning step that all franchise owners should take is to put a Will in place. At its simplest, having a Will means that you choose who your beneficiaries are – if you don't choose, then the law imposes a particular division of assets of those who die without a Will – and that may not achieve the outcome you would want. One key factor is the choice of your executors. Executors are the people responsible for dealing with your estate after you die. As a franchise owner, it will be important to choose executors who are commercially aware, and who would be capable of taking any other action that may be required such as keeping the business running in the short term and dealing with its subsequent sale.

Franchise agreements typically contain rules about what happens to the franchise after the death of the franchisee. The rules will outline if, and how, the franchise can be passed on to beneficiaries to continue as a business or how and when the franchise may be sold. Often there are time limits imposed on any course of action, so having a Will is important to allow your executors to act swiftly.

If there is no Will, the time taken to have an executor appointed could jeopardise the process. If no action is taken within a certain time, the franchise agreement will probably provide for the franchise to simply revert to the franchisor, in order to protect the franchisor's brand. That means your family could lose out. Having a Will can help avoid this undesirable result, and your Will should be tailored to avoid any conflict with the rules set out in the franchise agreement.

### **Avoid paying too much tax**

Your Will is also a useful tool in inheritance tax planning. There are particular reliefs from inheritance tax available for business assets which are not available on other assets such as your house or your savings. In some cases the relief can mean that no inheritance tax is paid at all on the value of your business. Proper planning when drawing up your Will allows full advantage to be taken of any available reliefs and maximises the value that can be passed on to your beneficiaries.

### **What if you fall ill and can't work?**

A Will deals with what happens on your death, but it is also important to consider what would happen if you were unable to work in your business, either temporarily or permanently, through ill health or incapacity. If no provision is made, the continuation of your business and its value could be at risk.

Franchise owners should consider a Power of Attorney. This appoints someone else to manage your affairs on your behalf (including your business) if you are unable to do so personally. It allows your chosen attorney, who might be a close family member, to sign documents relating to your business as it continues to operate, or to sell the business if it was clear that you would be unable to return to it in the future. This would also help to ensure that the value of your business is preserved, in this case, for your own benefit.

### **Protecting you and your business through insurance**

Franchise owners should also consider what insurance cover they need in relation to the business. In addition to normal cover for your premises and any that may be required in your particular field, it is important to consider the liabilities and risks which you and your business face, and take out insurance to protect you and your family against these risks. Here are some examples:

**Debts:** if you have borrowed money to buy your franchise and set up the business (either personally or if you have personally guaranteed a business loan), the loan should be covered by a life insurance policy. Rather than your family facing repaying the loan from your estate, the policy repays the loan in the event of your death. This cover is often combined with critical illness cover (see below).

**Injury or illness:** if you operate on your own and your profits depend entirely on you being able to continue working, you should consider income protection insurance. This type of policy is designed to pay you a tax-free replacement income for periods during which you are unable to work, to help pay your normal monthly outgoings. Cover may be difficult to obtain for new franchisees until a "track record" of earnings from the business is established.

**Employees:** if you employ someone (or more than one person) in your business who is crucial to the business' success, you should consider Key Man insurance. This type of policy would protect against the harm caused to your business by the death or incapacity of a key employee. Normally Key Man policies provide funds at this crucial time for hiring an interim, recruiting & training a replacement and cover lost profits.

**Critical illness:** if you were to be diagnosed with a serious or critical illness, this type of policy would pay you a tax-free lump to provide some financial security at a time when you and your family need it most. If a critical illness is diagnosed, you can also use a critical illness policy to repay any outstanding loans.

**Death:** if you were to die, your income would no longer be available to provide for your family. You should consider if, and how, your family would cope financially in that scenario. For many people, having life cover in place to provide a lump sum for their family

after their death is appropriate. Writing the policy in trust so it falls outside your estate for inheritance tax purposes should be considered.

Some types of cover can be obtained for a relatively low cost, and while it is not always possible to afford cover for every eventuality, you should review your insurance protection needs with an adviser to ensure that the most important risks you face are covered. Our Financial Planning team can help you with this.

### **Planning for retirement**

A final important aspect of planning for the future is considering your retirement after you exit the business. State pension provision is inadequate for the vast majority of people, who should also have a personal or occupational pension and/or other means of funding their retirement. We can advise on funding your retirement, including a review of your existing arrangements or help you with setting up a new pension plan.

### **WJM's approach**

At WJM we seek not only to understand your needs directly in relation to your business, but also to understand and help you and your family with your personal affairs. When you are a franchise owner, your business and personal affairs are almost always tightly intertwined. Ensuring that both are in order safeguards your family's future, whatever that might be.

More information from WJM's market leading Franchise Team:

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## **Wright, Johnston & Mackenzie LLP**

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