

## Values Based Advice: A Footprint for the Future

by Dr Robb Musgrave

### How to Create a Living Legacy and Build a Trusted Adviser Relationship

Over the next 40 years, but predominately the next 30 years Australians will experience the greatest intergenerational transfer of wealth ever known. Estimates indicate about \$600 billion will be transferred to and from the Baby Boomer generation (1946 – 1964) during this period.

#### What does this mean for estate planning?

To transfer wealth to the next generation without adequately preparing them, can do great harm. “If you ask a wealthy parent, ‘Do you want your wealth to corrupt your kids?’ there wouldn’t be a parent on earth who would say ‘yes,’” says Rodney Zeeb, author of “Beating the Midas Curse”.

People can purposefully plan the nature and type of impact they want to have on future generations by creating a structured legacy. My research concluded that everyone who is loved by someone will leave a legacy in some form, but few people experience the power of a structured living legacy.

#### What is a living legacy and how are they created?

You can begin to create a living legacy by thinking carefully about who you care about, who you can help and how. A living legacy is not found in a Will; it is created in your lifetime and is moulded over time by regularly revisiting your values and stories, then deciding how to pass on the wisdom you have acquired in your life, from the lessons you have learned along the way.

I have found that a *Structured Living Legacy* has 3 essential elements, a financial legacy, a personal legacy and a social legacy. The *financial legacy* is the money and tangible assets you leave after the bills are paid. The *personal legacy* is the sum of your life, your personal assets. It is your past and your future, your stories, values, hopes, love, wishes, advice and blessings, yours to experience and pass on if you desire. The *social legacy* is what you give back to society, your contribution to the world at large, or at least some small part of it. Often the initial impetus for a social legacy forms out of a personal tragedy or critical incident affecting someone very near and dear to us causing us to reflect; What is my footprint?

To create a structured living legacy you need to identify your dominant values, then set the goals and the specific objectives to begin to integrate your values across the three legacy elements.

### **Why is legacy creation of value to financial advisers and their clients?**

An understanding of the legacy process helps us build a closer values based client relationship and provide an alternative to commoditised product based advice. The advantage of values based advising is that you add significant value to your client's lives and put financial structures in place that really suit the client's needs, in a way they understand and for an outcome they really want.

### ***The Financial Legacy***

Advisers everywhere are equipped to assist clients with their Financial Legacy. Teams of accountants, lawyers and financial planners undergo extensive training and ongoing compliance to assist individuals to effectively pass on the assets in their estate, to minimise tax including capital gains tax and unrevealed estate taxes.

However, few advisers, no matter how well credentialed have received training to assist clients in understanding the value and importance of their legacy to their beneficiaries and how to transfer the benefits of their wisdom and knowledge. We often fail to recognise that money is the most misunderstood tool in the planning kit.

The goal of most families when planning their estate is to avoid conflict concerning money issues. Whereas, the goal of advisers is to preserve a client's wealth by minimising the tax impact on an estate and maximising the transfer of monies to the heirs. Our desires to protect family wealth can override and undervalue its creative potential at just that time in life when creativity about money is most needed, when our clients have amassed substantial wealth and are entering a more mature reflective stage of life and are on the journey to discover and understand their purpose and their legacy.

By re-positioning money as a means to an end (the end being how that person will be remembered) we can get to the issues surrounding legacy that will resonate immediately and strongly with the individual and produce the best outcome for their beneficiaries.

Many lawyers use wills and powers of attorney to transition client estates and create their financial legacy. But in these times of sophisticated structures the issue is often that companies and trusts are used to protect ownership and that the will most likely will not accomplish that part of the plan.

Often the beneficiaries are clueless when it comes to understanding the powers and control mechanisms put in place to protect assets. Without understanding and some experience it is beyond the capacity of many of the beneficiaries to retain this asset protection.

In conducting research among estate planning lawyers I found that many had a cottage mentality having developed specific solutions that were then marketed to a broad range of clients. Protection strategies were also defeated as were the opportunities to minimise the impacts of taxation.

One of the objectives of creating a financial legacy is for those advisers creating the legacy to take a multi-disciplinary approach which includes working together to achieve the client's values based legacy plan.

The client then needs to play their role in the implementation by bringing together their beneficiaries to explain what is intended and why. While this will not completely negate the possibility of future challenges to the estate, it does allow the family to be more fully informed, understand the intent and for any sticking points to be resolved through discussion and negotiation.

In some families the estate may be passing from wealthy 80+ year old parents, to 60+ year old children, who may be very affluent in their own right while the grandchildren are 30+ and struggling with big mortgages and high education costs for their children. Without a family meeting the subject of directing some financial help to the grandchildren and great-grandchildren at a time when it is most needed, may never be broached.

We can do our clients a great service by discussing the logistics and potential outcomes with them. Don't accept the "We are ok" line. Search for the weakness and the doubts, inform them about the recent changes in legislation (such as the superannuation rules which create estate taxes for non-dependent beneficiaries and the effects of capital gains taxes when inherited property is sold). Then work with them and their other advisers to plan the best overall financial strategy.

It is important that as advisers we overcome any reluctance to talk with clients about their values and personal goals, just as much as it is important for our clients to talk to their families about family money and inheritance issues.

We all need to teach our children our values and explain their family history through storytelling. This will better prepare them with the wisdom and understanding needed for life and for a successful inheritance.

In Australia, most wills are treated with secrecy and beneficiaries are left wondering until the benefactor has died and the will is read. This may bring some unwelcome

surprises! It may also leave the family wondering what was intended and feeling unfairly treated, which in turn can lead to contested wills, damaged relationships and unhappy memories.

Estate lawyers with vast experience tell us that ‘fair is not necessarily equal and equal is not necessarily fair’ – as our children’s health and life circumstances may vary. When planning the distribution of inheritances the emphasis should be on fairness rather than equality, with the decision and reasoning explained. In my research 75% of the respondents advised that they would give an estate in equal shares, but 25% argued against equal shares, based on differing needs. One respondent explained it this way, “I feel a responsibility to be fair to both children, but how can you be equal when one has every opportunity and the other needs so much help just to be maintained.”

How are matters of inheritance best communicated? This depends on one’s comfort level. A family meeting can be held in a non-threatening environment. If this is awkward or prone to conflict a facilitator can be appointed to lead the meeting.

The outcome of the family meeting can then be minuted and recorded in a Family Legacy Plan which details the financial, personal and social intent and other important personal and estate information. The meetings should primarily be focused on planning and informing, but it is a sound move to also include memorable social activities.

Only rarely do people prepare a comprehensive list of such essential information. When people are asked why they are so reluctant to plan for their own demise the answers range from “I don’t want to jinx myself” to “I really don’t want to think about it”. We are being unrealistic, as if by ignoring the inevitable it will go away. Living in denial also means clients fail to guide their loved ones to live on and carry on family values and traditions according to their wishes.

The type of information loved ones will require includes a list of all assets and debts, bank accounts, insurance policies, health records, key advisers contact details, storage locations, a memorandum of wishes and much more. Including the information required for capital gains tax documentation also adds an enormous benefit for the adviser who wishes to work in these areas.

### ***The Personal Legacy***

When people were asked who has left them the greatest legacy we expected them to mention a great leader or celebrity. However, a third of them named family members; parents and grandparents. When the same people are asked what they treasure most about loved ones, money was almost never mentioned as a significant part of the legacy.

Intangible personal legacies are regarded as almost as important as tangible assets like real property and shares. So why do we all place so much emphasis on building tangible financial legacies? Also, why do we place so much emphasis on work and money during our lifetime? Albert Einstein had life in perspective when he said, “Try not to become a man of success but rather try to become a man of value.”

It is a person’s values that determine what is important to them, what decisions they make and how they will live a purpose-filled life. Therefore identifying their dominant values (from the 125 possible values) and deciding which values they want to pass on to the family and how they are to be transferred, are critical to legacy planning. They then need to set goals and objectives and really implement them as a way to strengthen family relationships and effectively transfer these values to future generations.

In the words of Rodney Zeeb, author of “Beating the Midas Curse”, “It is for your values, not your valuables, that you will be remembered. In times of personal or family crises, it is the values you worked consciously to transmit to your children and grandchildren that will sustain them through their own trials.”

In the minds of the respondents to my research, the creation of character was at least as important as any financial legacy. However, the decision to pass on wisdom and personal experience is only the first step.

Oral traditions are well established for the transfer of family history and values but are not as reliable over the long term as a written document, so it’s best to do both. Informal writings may include the family story, life journals, recorded family DVDs and letters of love (for example from father to son and mother to daughter).

Some families build strong and robust traditions to teach and protect the family members. While in Australia, it is unusual to have long established intergenerational families they do exist, including many who connect themselves to the First Fleet as a part of their family heritage. In the USA, wealthy families have a longer tradition, often five and six generations and many of these families are united because of their family commitment to helping others through charity and philanthropy.

### ***The Social Legacy***

The social legacy is a way to give something back to society. It is an opportunity to help others, in the local community and elsewhere, in order to contribute to building a better world. From our research we found that 35% of respondents commented that if they were fortunate with money they believed they had an obligation to help others. Further, 90% agreed that it was important for their family to be involved in the community or to volunteer and 76% said that giving to charity was an important

part of their life now. These findings are consistent with the findings of the QUT, Centre of Philanthropy and Non-profit Studies, (2005) *Giving Australia: Research on Philanthropy in Australia* report.

The decision to establish a social legacy may be an individual decision or it can be an important family value where other family members are invited to join in by volunteering, church and community work, charitable giving and philanthropy.

For those people and businesses that value philanthropy and want to implement a long term structured giving program, charitable trusts or family foundations (Prescribed Private Funds or PPFs) can be established to direct money to their preferred social causes. Thirty percent of all respondents felt a family foundation would be the best solution for addressing a social legacy. Currently the number of family foundations in Australia double each year. These will become a substantial component of philanthropy in Australia.

Family foundations are also of interest to advisers as they become a second client with a different risk profile due to their long term investment approach, as foundations are usually established to last for 80 to 90 years.

An increasing number of wealthy families wanting to effect change choose to establish foundations so the monetary support can be sustained over the long term. The causes are often carefully chosen to ensure alignment with family social values and to maximise the long term benefits from giving.

Foundations also enjoy tax benefits, as the money held in foundations is tax free and *in specie* transfers are allowed, which means assets that would normally attract capital gains tax can be transferred into a foundation, and when sold by the foundation are Capital Gains Tax exempt. Money can be held and invested with minimal distribution in the early years, to allow the *corpus* (body of wealth) to grow.

A family foundation can be established with as little as \$5,000 but with establishment and ongoing administration costs from \$300,000 is usually recommended as the minimum level of foundation assets for economic viability. The largest Australian PPF established to date is in the order of \$70 million.

For advisers to understand and adopt a values based approach to client advising is good business. It differentiates and builds competitive advantage; the sort of advantage that is hard to define and therefore hard to copy.

Tailored services please the client and add value to the client-adviser relationship. High-net-worth individuals expect a high value relationship and trust advisers who listen to them, know what is important to them and tailor their service and advice accordingly. While conducting my research with high-net-worth individuals I found I



was consistently being given referrals to even higher-net-worth individuals. These were unsolicited referrals. I found the values approach is so refreshing to clients they want others to share the experience.

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