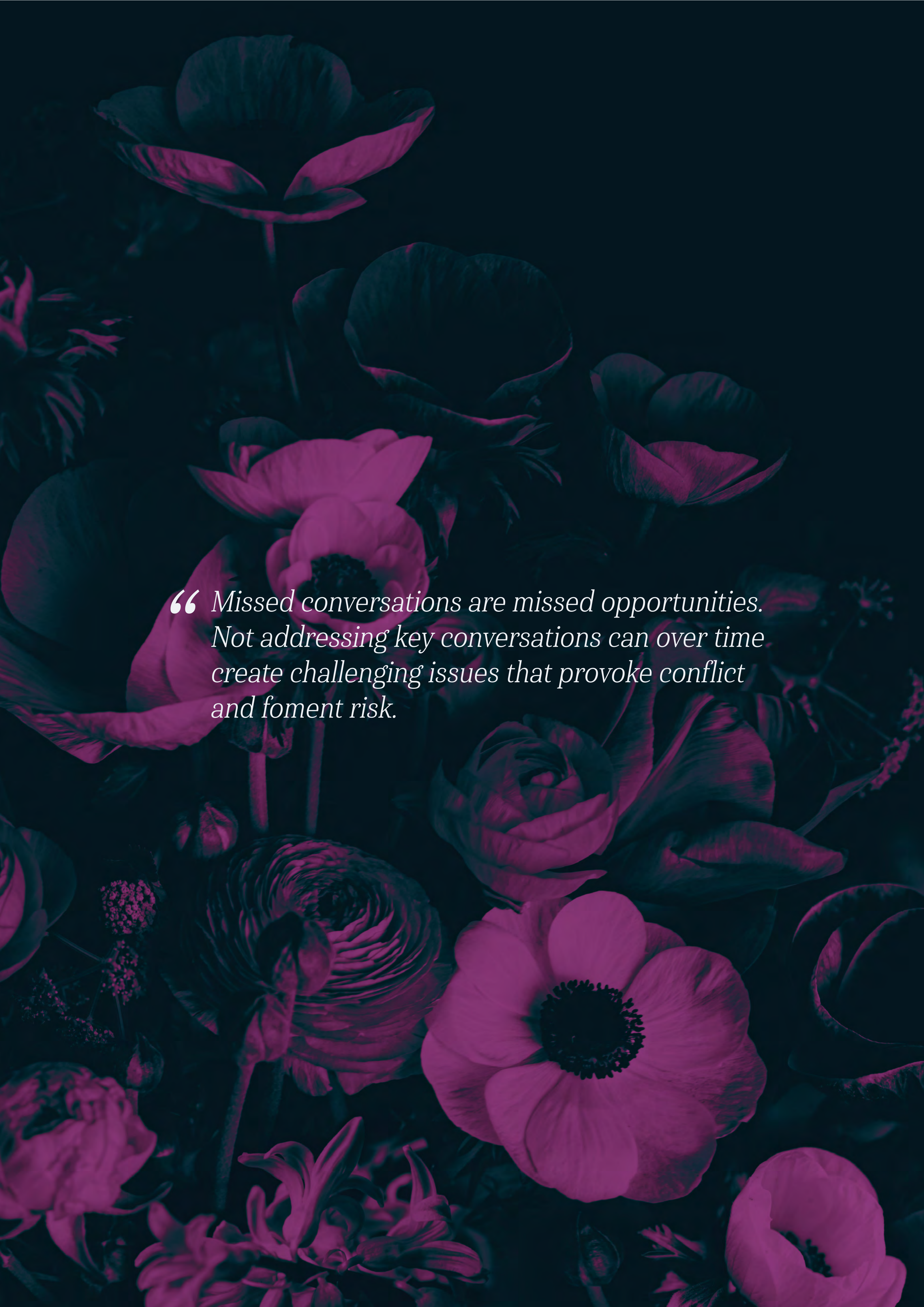
Generation Game

The great wealth transfer and the outlook for families in 2021 and beyond

A RUSSELL-COOKE FAMILY OFFICE REPORT

Offering clear, practical advice on everything from wills and pre-nuptial agreements to business and property portfolios via philanthropic aims and reputational issues, Russell-Cooke's Family Office service recognises that families, their wealth and their business interests are inextricably linked.

We understand the wide range of legal, financial and emotional issues that families face, especially at times of transition. With the experience to anticipate challenges before they arise and an empathetic approach to helping individuals and families make informed decisions about their future planning, Russell-Cooke's Family Office provides families seamless access to the specialist advice they need, when they need it, and helps navigate the difficult conversations that might otherwise lead to conflict.



“Missed conversations are missed opportunities. Not addressing key conversations can over time create challenging issues that provoke conflict and foment risk.

INTRODUCTION

Families are complex entities. They are an interconnected web of personal relationships and economic interests that result in affection, bargaining, and sometimes hostility often in equal measure and sometimes simultaneously. Many family discussions take place within a background touching upon legal rights and responsibilities, but often in a vacuum of legal advice. This is why often families avoid talking about the things that matter most.

Missed conversations are missed opportunities. Not addressing key conversations can over time create challenging issues that provoke conflict and foment risk.

We believe that now is the time to challenge this dynamic and for families to have, between themselves and with their advisers, those conversations previously consigned to the 'too difficult' pile. Indeed, this mission was at the heart of the establishment of the Russell-Cooke Family Office, and we hope this report will help families and act as a catalyst to increased transparency and openness.

It is key to recognise that it is not just the black swan event of Covid-19 driving this imperative for families. We are on the cusp of one of the largest intergenerational wealth transfers in history, with an estimated US$15.4 trillion of global wealth expected to be handed down in the next decade. This shift will see wealth pass increasingly to Generation X (those in their 40s and 50s) and, in some cases, Millennials (20s-30s). These demographic groups have different perspectives, priorities, and motivations to those of the previous generation - and different ideas about the management and deployment of wealth.

In this context, recent research by UBS indicates that as many as a third of family offices have no succession plan in place and only a fraction of the plans that exist have been formally ratified. If such a lacuna exists with families who have the support of family offices, those without in-house or external advisers are even more likely to have gaps in their understanding or planning. One of the reasons for this gap is that difficult conversations are often required in order to develop and agree on a strategy. According to UBS, the number one challenge to succession planning was conversational discomfort.

As wealth continues to be transferred down through generations, the challenges and opportunities families face are evolving, and at an increasingly fast pace.

With 2021 set to be a year of significant change, we interviewed a range of leading specialists to map the key issues for families in the 'new normal'.

This report draws on those interviews and the Russell-Cooke Family Office's legal expertise and experience of dealing with families. It reflects on the issues wealthy families face, the potentially difficult conversations which must be had to manage them effectively, and how the changing requirements and expectations families have of their advisers will lead to new approaches and services being developed by professionals.

One thing is clear - proactivity, openness, understanding and empathy – on all sides – are critical. We hope this report helps build an awareness of the issues, enabling families and their advisers to open discussions early and plan for a successful and resilient future.

Rebecca Fisher
Russell-Cooke Family Office

EXECUTIVE SUMMARY

Following interviews conducted with a range of specialists we identified five key issues which will be central to conversations amongst families and their advisers as they prepare for the next great wealth transfer and the sustainable management of familial wealth for the future:

1.

Shaping successful succession strategies

Almost all families will need to manage wealth transfer, succession and inheritance planning. This may be well-planned both in terms of legal and financial arrangements, but also in terms of expectation management. Yet where families avoid this planning, the fallout is often the cause of significant familial friction. What started off as ‘too difficult’ to discuss becomes far more difficult and must be handled with even greater care when the inevitable happens.

This isn’t just about having the right documents filed away in the bottom drawer. Rather, careful attention needs to be paid to educating children (of all ages) about decision-making, wealth, value and how that wealth is sustained, while not over-exposing them to privilege at too early a stage and for too long. This next generation of wealth inheritors can be misunderstood or mislabelled, and often face a distinct set of challenges and expectations of them that can lead to complexity, conflict and in some cases personal risk. Openness, honesty and empathy are key, as is a recognition that the goals of the next generation may differ to those of the previous wealth creators and guardians.

2.

The new wealthy demography: a new paradigm for investing and giving?

Investment and ethics are not mutually exclusive. While there is an assumption that Millennials are the driving force behind the shift to sustainable investing and responsible capitalism, wealthy individuals have been central to philanthropic activity for generations, and are now ever more mindful that wealth comes with responsibility.

The long-term direction of travel is for greater alignment between social responsibility and economic return. Responsible and resilient investing and asset protection will by necessity mean a rebalancing of portfolios to prioritize assets that create a net positive impact for society and the environment. This will require an attitudinal change from advisers and clients who have traditionally focused on immediate financial return first and foremost, and this may be driven in some cases by pressure from, and dialogue with, the next generation who may have different values and motivations.

3.

The ever-changing tax regime for cosmopolitan HNWIs

Aggressive tax avoidance has largely been consigned to the past, but public opinion and political rhetoric continue to fuel a narrative of widespread non-compliance that breeds distrust of wealth – and brings about public scrutiny.

The reality is that wealthy families' tax affairs are incredibly complex and are often international. Tax planning is essential and legitimate. It is the obligation of advisers to present the options, and for the family to select the most appropriate tax strategy for them. However, the next generation will have to tread an increasingly fine line to ensure tax strategy is aligned with broader reputational and social responsibility priorities.

4.

Public scrutiny and reputational risk

Families and HNWIs are increasingly mindful of their public image, or brand, driven predominately by social media and the 24/7 international news cycle. This is true whether or not someone seeks a public profile.

This public scrutiny brings significant risk, including mental health risk as well as issues such as cyber and personal security. Families may need to curate a public reputation while at the same time managing and protecting the profile, wellbeing and business interests of family members.

5.

The changing role of the trusted adviser

Advisers play a critical role in helping families navigate the challenges they face, but they must take steps to understand the motivations and values of the emerging wealthy.

Just as there needs to be openness within the family, so too there needs to be openness amongst and collaboration between a family's stable of advisers. Establishing working relationships with other advisers based on trust, openness and an understanding of the value that specialist skills and perspectives can bring is fundamental to delivering a quality client service and maintaining the confidence of families as they grow and change.

We would like to extend our thanks to our interviewees for this research:

Dr Angela Smith
Forensic & behavioural psychologist

Rebecca Bettany
Director, JTC Private Office

Robert Mace
Tax Partner, Saffery Champness

James Gladstone
Head of Wealth Planning, Cazenove

John Pepin
Chief Executive, Philanthropy Impact

John Bareham
International Partner, Cushman & Wakefield

Issue one:

MANAGING SUCCESSION AND THE TRANSFER OF WEALTH

The landscape of wealth is changing. In the US alone Millennials will by 2030 hold five times as much wealth as they do today, while women are adding US$5 trillion to the wealth pool globally every year and control around a third of the world's wealth. Each demographic may have their own set of values, goals and motivations which may, at times, conflict with the status quo of their predecessors and which their advisers must proactively seek to understand and manage when dealing with change and succession.

Some of the challenges of wealth and succession are not wholly new. Passing on the baton of the business, the wealth or the reins of leadership to the next generation has much in common with a relay race. Preparation is key, and the moment of the transfer itself can be a time of risk.

Practice can make perfect, as **James Gladstone of Cazenove** puts it: "family offices or families with legacy wealth are generally used to managing the transition of wealth. They generally do it much more effectively than those attempting it for the first time."

Legacy and governance

And that is an important point to stress. Those who have recently built wealth face a distinct set of challenges compared to those who are the latest guardians of legacy wealth.

Those challenges can be both practical and psychological. According to **Gladstone**, "entrepreneurs are often more open about wealth and are more inclined to spend it but are also often more stringent about how it's transitioned to the next generation." There is often a different mindset among those who have personally created their own wealth which can change the dynamic of succession. As **psychologist Dr Angela Smith** puts it, "there's a sense that what's being passed down is perhaps more fragile and is deeply personal. It needs handling with care and children taught to respect that." Equally, entrepreneurs can sometimes find it difficult to extricate themselves from the business which has brought them and their family success. Part of the adviser's role is to help make this transition.

But there also needs to be an understanding of the pressures, expectations and limitations which wealth inheritors, of all types, often face - particularly when, for example, the existing holders of wealth seek to impose significant levels of control and influence. According to **Rebecca Bettany of JTC**, "there's often a perception that the second and third generation squander a lot of wealth, whereas actually their hands are very often tied behind their backs. It's a very difficult situation to be born into, even for the most talented and conscientious person."

A Family Charter may help in this process, but advisers must guide the process carefully. As **James Gladstone** points out, "Family Charters can sometimes be far too rigid and don't let the children actually lead their own lives. Family Charters should be about ethos and values, not a straight-jacket for the next generation."

Family Charters can be that useful guiding tool – but they are rare documents. The concepts they embody, though, apply to all families – what is our ethos, where do our priorities lie, how do we resolve disputes? This all points to the need for careful conversations, and the involvement of all relevant members of their families and their advisers.

> *"Family offices or families with legacy wealth are generally used to managing the transition of wealth. They generally do it much more effectively than those attempting it for the first time.*

JAMES GLADSTONE
Head of Wealth Planning, Cazenove

EDUCATION AND UNDERSTANDING

With that in mind, while the younger generation must not be over-exposed to handling too much wealth too early, it is essential to educate them about their position and privilege. This includes developing an understanding of the value of money and how the family's wealth is both applied and sustained and providing an appropriate level of visibility about the family's worth and how it is structured and managed, so that the children are able to make informed decisions later on. There are risks associated with ignoring the issue of education. "If the individual has certain rights, perhaps under a trust, but they don't have transparency over their worth then they may end up making poor personal decisions because they don't comprehend the impact of what they're deciding to do," says **Robert Mace of Saffery Champness.**

The same can be said of decisions made with the focus of either wealth protection or wealth sharing. Many family relationships are also legal relationships. Many family enterprises are also legal entities. Such relationships and entities therefore inevitably come with a host of (often misunderstood and sometimes unwelcome) legal rights and responsibilities. Wealth planning through financial professionals is pivotal but there is little point in doing so if the generation or accumulation of wealth is then undermined by the lack of legal planning, or worse is threatened by legal attack. Ensuring the family's financial objectives are aligned with its legal position involves education, discussion and advice.

Teaching young people about – or even involving them in - family enterprises, philanthropic activity or encouraging them to spend time working outside of the family business can provide a useful grounding before an inheritance is received. Moreover, they will gain an invaluable external perspective, vital skills, and contacts which in turn build maturity and a sense of self-reliance and self-respect. "I think it's good for children from wealthy families to get a first job outside of the family business, not least in order to gain the respect of the other non-family members in the family business," says **Rebecca Bettany**.

Education about wealth protection is not just for the young, however. Older generations are also likely to require advice and guidance on when to start the succession process, what their options are, such as the pros and cons of preserving their legacy intact versus splitting assets, and how to approach succession in a world that is changing fast, and where beneficiaries' goals may differ from their own. The support of the 'bank of mum and dad' may sound everyday and mundane, but it is less so when the family can suffer a huge financial loss, as well as the possible loss of a loved family home in the absence of informed conversations and decision-making about the level of that support. More so, each generation may have something to learn from the other in terms of thinking about sustainable or social impact investing or new ideas for philanthropy or even the way wealth is structured and managed.

Getting it right requires dialogue. Individuals are bound to have different personalities, opinions and levels of personal ambition. Family relationships can be complex and different cohorts and generations may have contrasting world views. Differences can be healthy, but unspoken differences of opinion or attitude can easily develop into disputes. Professional advisers must acknowledge and consider all these elements when guiding discussions about the future.

Issue two:

SOCIAL RESPONSIBILITY –INVESTING AND GIVING

As a heightened focus on environmental and social responsibilities takes hold and a new and increasingly diverse demographic of wealth continues to emerge, there is a corresponding growth in interest from families, and the wider investment community, in socially and environmentally responsible investment.

This focus is partly driven by an increased awareness of issues like climate change and social inequality, but the underlying motivation for this is not, necessarily, the preserve of the 'next generation'. That sense of responsibility has always been present, but we are now seeing a growing recognition that financial returns and ethical or moral responsibility are not mutually exclusive. The next tranche of wealth inheritors are conscious of the balance between doing harm and doing good, says **John Pepin of Philanthropy Impact**. "Traditional investors would seek to maximise financial return and then give away money to do good. What Millennials are saying is that these endeavours should not be in contradiction."

The rise of ESG

Environmental, Social and Governance (ESG) investment is on the rise. Recent research suggests that portfolios of high net worth individuals (HNWIs) and family offices are set to almost double their allocations to ESG funds by 2025 – to the extent that impact investments could account for as much as 35% of portfolio allocations.

It is still early days, though, with sustainable investment not yet having the track record of performance needed for a significant shift. "It's quite easy to talk green, it's a lot harder to actually make that pivot to investing a sizeable portion of wealth into the nascent ESG industry. The problem is no one is quite sure whether it makes any money as there isn't that history yet of positive returns," says **Robert Mace, Saffery Champness**. **Rebecca Bettany, JTC**, agrees. "There's obviously a desire to maintain the position of wealth and privilege by keeping up with inflation and investing sensibly. People are not looking to throw away their wealth."

But the direction of travel is becoming clearer. The logic goes that businesses operating sustainably, with a lower environmental impact and less reliance on limited natural resources will outlive those companies with a short-term view focused on immediate returns. Investing in such companies therefore creates additional long-term resilience. "The perception that you're giving up returns in order to invest sustainably is not factually accurate. If you stop to think about it, sustainable investing makes perfect sense, particularly for families who take a long-term view", says **James Gladstone**. "Sustainable investing isn't about altruism, it can also be an active choice to maximise long term returns whilst reducing the negative impact on people and planet."

The data is beginning to slowly support this view, with Morningstar reporting that average annual returns from sustainable funds have outperformed traditional funds over ten years.

> *“Traditional investors would seek to maximise financial return and then give away money to do good. What Millennials are saying is that these endeavours should not be in contradiction.*

John Pepin
Chief Executive,
Philanthropy Impact

A sustainable future

There is increasingly a blurring of the lines between philanthropy and investment with both forming part of a more sustainable approach to the use of wealth. **Pepin’s** view is that “philanthropy is a form of investment, but instead of seeking a financial return, you’re seeking a social return. Many people see philanthropy as part of their personal journey – they are fortunate to have wealth and they are using it to create change.” He points to “venture philanthropy” as an emerging force, in which an entrepreneurial partnership is created between donor and recipient, based on a sound “business case”, not just a case for support.

Responsible investing is unlikely to replace traditional philanthropy. Rather, it will complement it. In 2018, the ultra-wealthy (defined as those with a net worth of US$30m+) gave away more than US$150 billion.

Rebecca Bettany believes there is also an element of good housekeeping going on beyond ESG and impact investing, with some families increasingly mindful of the impact of their operations, for example business supply chains, on the wider environment: “It’s the HNWI equivalent to a regular household improving their recycling,” she says. “Families are looking at whether their business can be managed in a more sustainable way.”

John Bareham of global commercial real estate services firm Cushman & Wakefield sees a similar focus with property assets. “Long term investors are focussed on sustainability and the green credentials of real estate – this is at the top of their agenda for 2021 and it is not going away. If you don’t embrace these factors, buildings that don’t meet appropriate ESG criteria won’t hold their value as well as those that do.”

Families that take a long-term view are ideally placed to lead this movement of change. Doing so requires the input of their advisers – especially in ensuring the objectives of families are aligned with the actions of those advisers, and more so, that any shift towards sustainable investment is properly understood and managed.

Issue three:

TAX FOR THE INTERNATIONALLY MOBILE

If families are dealing with a period of flux and evolution, they are also continuing to seek to manage one of life's certainties - tax. "Tax is, in every case, pivotal," says **Robert Mace of Saffery Champness.**

But the question of tax has been complicated by an increasing cosmopolitanism amongst the wealthy and the globalisation of tax laws and regulations across jurisdictions, running alongside the changing nature and reputation of jurisdictions. The words 'tax haven' and 'offshore' are not interchangeable but often are tarred with the same 'avoidance' brush.

The wealthy have always been internationally mobile – both the individuals and their money - and while this freedom brings with it the benefit of choice, it also raises complexity and creates risk.

Regulation and compliance

Tax has become increasingly international amid inter-governmental efforts to harmonise rules and clamp down on non-compliance. 2020 saw the 5th EU Anti Money Laundering Directive become transposed into law and some 81 jurisdictions now have laws requiring beneficial ownership to be formally registered, more than double the number of two years ago. Countries are also collaborating ever more closely in sharing data under the Common Reporting Standard, whose signatories now number over 100, with 4,200 bilateral exchange relationships activated.

Increasingly stringent and joined-up rules and an intensifying drive for transparency are creating new challenges for the effective management of wealth. Compliance is high on the agenda and advisers have a pivotal role to play in ensuring clients pay the right amount in a world where how much is considered too much or too little is often highly complex and subjective (See "Issue four"), and can be the subject of public and press scrutiny

Tax planning has become far more conservative. There has been a definitive shift away from aggressive avoidance through the use of elaborate investment schemes and structures, partly as a result of increased scrutiny in the wake of public disclosures such as the Panama Papers and partly following increased multilateral reporting and convergence of regulations across borders. "The claims you hear about yet another crackdown on tax avoidance are largely hyperbole. The majority are morally happy to pay their fair share, plus there's just no appetite amongst clients or advisers for the legal and reputational risks that convoluted tax planning might bring," says **James Gladstone, Cazenove**. On the other hand wealthy families, as with any other family, have an understandable desire to have a fair tax position based on their own circumstances. This is a challenging issue for HNWIs with multifaceted tax affairs that are international in nature. For those who do not necessarily see a particular jurisdiction as their home and are not using local services, there can be real and justifiable concerns around expectations to pay tax in that country.

“ *Tax is, in every case, pivotal.*

ROBERT MACE
Tax Partner,
Saffery Champness

“No one wants to pay more tax than they need to, and advisers have an obligation to provide clients with the options in terms of their tax profile,” says **Robert Mace**. “This isn’t about dodgy avoidance schemes, it’s about tax mitigation.”

At the point of wealth transfer, the question of why certain decisions are made, what the advantages and risks are and whether or not arrangements are still fit for purpose may well come to the fore. This complexity can be compounded when there are historic legacy structures to consider. Issues such as tax efficiency versus the control and protection that certain structures provide may need to be examined and reassessed. Difficult decisions may need to be made around domicile and residency or whether to keep assets in jurisdictions now seen to be higher risk in terms of reputation or security. In some cases, it may be more tax-efficient for individuals to move jurisdictions or spend more time away from their home countries to mitigate negative tax consequences.

But tax is often not the driver. While one jurisdiction may be attractive for tax efficiency, the priority for a family may be grounded in the reality and practicalities of family life and fundamentals such as the children’s schooling may well take precedence over tax efficiency.

ECONOMICS, ETHICS AND TRANSPARENCY

Looking ahead, as governments seek to plug deep holes in public finances decimated by Covid-19, families will be bracing themselves for potential tax rises and an ever-stricter approach by tax authorities. Whether or not the tax receipts they say they expect to realise are realistic is in some senses immaterial: being seen to take a tough line is often what matters. Issues around fairness command more public attention in difficult times. The taxation of wealth has always been a contentious issue, inextricably tied up with reputation – particularly in light of recent pushes for increased transparency following high-profile disclosures of individuals’ tax affairs.

With economies in large parts of the world shrinking in 2020 and the outlook ahead uncertain, with severe deficits likely to take many years to reduce, tax seems set to continue to take centre stage in the public consciousness for some time to come. Taking steps to mitigate tax such as moving assets offshore may be eminently sensible and legal but could come at a reputational cost in the current climate – especially if individuals are at the same time promoting a public brand or promulgating their ethical credentials by moving into ESG investing (See “Issue two”). Consistency between proclaimed social and ethical purpose and personal choices, including tax decisions, must be considered in their wider context and as factors within the public eye.

Issue four:

REPUTATION AND RISK

Wealth is a private matter, but is often the subject of public scrutiny and consumption. Those that have it are very often in the limelight, whether they choose to be so or not, sometimes by virtue of their lifestyle or livelihood or merely by the fact of wealth. Likewise, there is a strong desire among many to use their wealth to make a lasting impact and to leave a legacy beyond their immediate familial circle.

Curating a legacy

Philanthropy plays an important role here. Historically, from the Romans through the Renaissance to the Victorians, wealthy families have been key contributors to public works including cultural assets and housing. "I do think that most human beings are interested in their legacy and, to be frank, building up a business might sometimes be viewed as a fairly boring legacy. Many will be much more interested in having contributed to the arts or having been involved in a charitable endeavour" says **Rebecca Bettany, JTC.**

A public profile can bring significant risks, however, not least to personal privacy but also physical security and mental wellbeing. In addition, neglecting reputation as a key asset to be curated and defended can have negative economic impacts. "Reputation is a key part of the decision-making when it comes to tax planning," believes **Robert Mace, Saffery Champness.** "Individuals don't want the tension and emotional strain that comes from seeing negative press about them and it can have a huge impact on things like company valuations."

Wealth inheritors in 2021 and beyond are facing these same challenges, but they have been exacerbated by a general trend towards increased transparency, and the associated risk of unwanted publicity – of both personal life and financial interests (See "Issue three").
This is exacerbated by an overload of information and news consumption driven by the intensity and immediacy of the 24/7 media cycle within which wealth is by its nature often aligned with celebrity. "Information travels so much faster than it used to. If something goes on the Mail Online it's been viewed by millions of people and will be there forever. Equally, if you Google a wealthy individual and nothing comes up then that can lead to unwanted scrutiny," says **Bettany**.

To a large extent this reality has resulted in a shifting mindset amongst the wealthy, in some cases heightening the sense of obligation to build a positive public persona through responsible investing and philanthropic activity, and in other cases a feeling perhaps of unwarranted guilt and unease about the position of privilege.

As **Dr Angela Smith** puts it, "the younger generation want to be seen as socially conscious and they are motivated to give wealth away to good causes – but this may not always be entirely altruistic. Social media has fuelled a degree of narcissism and a desire for adoration which can be very unhealthy."

Rebecca Bettany partly agrees. "A lot of wealthy individuals actually feel a degree of guilt regarding their wealth and privilege," she says.

> *“It’s the role of the adviser to help them see that they are in a position of great opportunity to use their wealth to do good.*

REBECCA BETTANY
Director,
JTC Private Office

“If a family or an individual is in a position where they are feeling guilty about their wealth then it’s the role of the adviser to help them see that they are in a position of great opportunity to use their wealth to do good.”

Here too, Covid-19 is having an impact. 11% of billionaires are known to have donated specifically to Covid-related causes in the first half of 2020 (in addition to their other philanthropic activity). More is undoubtedly being given under the radar and other benefactors are likely to follow suit. According to **John Pepin, Philanthropy Impact,** “since the start of the Covid crisis, we have seen a big shift, with more and more people approaching their advisers and asking how they can help.”

Evolution of reputation risk

With increased transparency and access to information, motivation becomes an important driver of reputation. Historically, certain philanthropic and charitable endeavours have been labelled as greenwashing when they are in conflict with the actual production of wealth (See “Issue two”). Now we are even seeing a revisiting and critique of historic wealth through this lens, including by family members themselves.

“What we’ve seen recently through, for example, the Black Lives Matter movement is a growing awareness of and unease about the fact that many wealthy individuals from the past perhaps wanted to be remembered as, say, an educational benefactor but in some cases the wealth may have been originally derived from abhorrent sources,” says **Rebecca Bettany.** This can cause significant tension within families as wealth inheritors seek to reposition their families for the 21st century.

What is clear is that as public scrutiny of wealth and the wealthy increases, particularly in line with mounting public debt and the democratisation of information through government-led transparency initiatives and through the global forum of digital media, family reputation will continue to be a critical factor impacting decision making.

Whether through a planned approach to reputation management or a series of actions that have to be taken through effective crisis management, an active approach to profile and publicity is needed. For some that means actively engaging with their advisers to promote their values and goals, for others it is planning advance processes for the protection of their privacy. For many though, the crisis comes before the planning, and when such events occur concise, pragmatic and proportionate advice is what is required.

Issue five:

THE ROLE OF THE TRUSTED ADVISER

Advisers have a critical part to play in helping families and individuals navigate the challenges they face, balancing competing obligations around personal priorities, wealth preservation and social responsibility amid changing social norms and family structures and change. With approximately 7,300 family offices around the world now controlling an estimated £5.9 trillion in assets under management the importance of getting the right advice cannot be underestimated.

Professional partnerships

Just as family dynamics matter in the management of family wealth, so too do the dynamics within the stable of advisers with there being significant risks when there is a lack of communication and understanding. "It can be hugely difficult to deal with and navigate the often-competing voices and interests that come with the ecosystem of advisers around a family. A family office is by definition acting for the whole family, but you do have competing interests and different familial dynamics. Transparency, impartiality and independence are imperative," says **Robert Mace, Saffery Champness.**

Wealthy families have complex needs, requiring the right mix of experts with the requisite technical skills and experience to advise across the full range of personal and business matters – but, perhaps more importantly, synergy and understanding amongst advisers are fundamental.

Legal services are an integral part of these requirements. Too often, legal advice to families is segmented. Families do not exist in silos and neither do the issues that they face, whether individually or collectively, or personally or professionally. It would be inconsistent to encourage families to talk openly, work collaboratively and plan for the future whilst at the same time failing to ensure their professional advisers do likewise.

James Gladstone of Cazenove agrees. He likens the advisory ecosystem to an orchestra, where everyone has their own specialisms but must work together in harmony. However, he cautions that "problems emerge when there is competition for the role of conductor. At the same time, it can be unproductive for the conductor to act as a gatekeeper overly shielding the client from tackling potentially challenging issues or withholding access from other professionals who are better placed to advise on certain issues."

Trust is as important as expertise for families when selecting an adviser, as is building a strong rapport and working relationship with other providers. "The family is often slightly at the mercy of those who are closest to them and so they need to choose their advisers carefully and be careful about who they trust. If they choose to trust the wrong person who has the wrong objectives or who is self-interested then they may end up with the wrong advice," says **Rebecca Bettany**.

> *“Families need to be self-aware and to outsource their weaknesses.*

Dr Angela Smith
Forensic & behavioural psychologist

This can be a particular issue for those families who perhaps rely on legacy structures and systems which might have become outdated as social norms and in some cases law and regulation has moved on.

Constructive dialogue

For families without embedded advisers (or even those with), there is strength and stability in working with professionals who have established clearly defined relationships and who avoid the politics of being the trusted adviser. Embedded advisers can no doubt assist but may also become so entrenched and protective of their position that they ‘shield’ the families they represent from other advisers or from outside influence.

The manner in which a family addresses its issues may also be driven by the need to maintain reputation and bolster privacy (See “Issue four”). Whatever the source of wealth, a high-profile media-frenzied court case is rarely welcomed by families. Their advisers have a duty to protect the families they serve, and the wealth they hold, in creative, planned and solution-driven ways.

At the other end of the spectrum, whoever families work with, tackling issues early and frankly - and providing a constructive framework for discussion - is key to forming and strengthening those adviser/client relationships. Documenting how and why decisions were made is also vital to ensure collective understanding and to avoid potential conflicts in the future.

That’s not always easy, as wealth inheritors may not always have the same level of loyalty towards their advisers as older generations. According to **John Pepin, Philanthropy Impact,** “clients are looking more closely at the values and activities of their advisers and how far these match up with their own. The firms that will struggle will be those who haven’t picked up on the differences of today’s wealthy individuals from those they’ve been used to dealing with.”

Fundamentally, says **Dr Angela Smith**, “families need to be self-aware and to outsource their weaknesses. Not just to provide technical skill but to help them understand their individual situations and work to resolve issues quickly before they fester and become problematic.”

HANDLING DIFFICULT CONVERSATIONS

– THE LEGAL PERSPECTIVE –

Exactly as it says on the tin, challenging conversations can be a challenge. Often wealthy families are proactive about the business interests and investments that generate the family's wealth but can be reactive, avoidant, or even unwilling to engage when it comes to more personal matters such as legacy, inheritance and the mechanics of any family change including, though not restricted to, wealth transfer.

Many of the problems families face emanate from not sitting down together to talk, let alone confront challenging topics – or even simply to get to know each other's viewpoints more deeply on everyday cultural or personal issues. Those conversations might affect the structure of the family, its fears, hopes and objectives, and the stewardship of its wealth. That might range from understanding individuals' own lives and life ambitions as well as their positions on global issues like poverty, climate change, Black Lives Matter or LGBT+ rights.

Control and influence matter. Sometimes, the older generation may be reluctant to cede control to a misunderstood younger generation champing at the bit. Sometimes, they are willing to hand over but are frustrated by a perceived lack of interest on the part of younger family members. These conflicts can be navigated through early intervention and the right advisers acting as facilitators, mediators and even arbiters. From a legal perspective, much focus is rightly placed on 'the voice of the child' where welfare and upbringing are concerned, yet often the voice of that (sometimes adult) child is lost or unheard when it comes to discussions and decision-making regarding family businesses or wealth.

Likewise, family governance, which can in many cases be lacking, must be addressed head-on. Families may have company or trust structures that were set up historically or with objectives that were fit for purpose at the time, but have not been recently reviewed, or governance documents that are now out of date, exposing them to the risk of tax inefficiency or internal family conflict. Many such arrangements simply do not fit with the modern world and with the diversity and inclusion that is now strived for.

At the same time, traditional family structures, inter-personal relationships and peoples' sense of their own personal identity are complex and ever-changing. Same-sex relationships and marriages are now widely (though not universally or consistently) recognised; around one in five births in OECD countries happen outside marriage; cohabitation, divorce, remarriage, and stepchildren are common; transgender rights are coming to the fore – to name just a few issues that could have a bearing on families, and which in turn can either have intended or unintended consequences on wealth transfer.

Legal recognition and regulation is evolving fast in these areas: far more rapidly than mechanisms such as wills and trusts are typically updated. Of more concern, misconceptions predicated on legal myths and misunderstanding around entitlement to wealth in non-traditional scenarios abound, creating unfounded security or, conversely, angst. Left unaddressed these misconceptions can quite swiftly become costly issues (emotionally and financially) for families to deal with. In the worst-case scenario they can decimate families and even leave individuals destitute despite the surrounding wealth.

Any one of these issues can have a significant effect on the family itself. Each in turn can also negatively affect the reputation and public perception of the family. Decisions made now to best manage family affairs should be seen in terms of the impact on the current family and future-proofed for their potential impact on generations to come.

Unsurprisingly, for all these reasons, families often refuse to face up to the reality of challenging issues or simply put off dealing with them. Professional advisers have a duty to steer their clients away from relegating them to the "too busy" or "too difficult" pile. Time is unlikely to make such situations any easier to handle, but prudent guidance and advance planning will. It is incumbent upon advisers to gain the trust of families to enable those conversations before they become conflicts or fall victim to the law of unintended consequences.

OUTLOOK FOR THE FUTURE

–

Preparing families for change, transition and wealth transfer is paramount in the interests of serving their future needs and delivering a sustainable legacy (pecuniary and otherwise) that will be well-stewarded by beneficiaries and preserved for the generations to come.

Conversations must be had and, more so, difficult conversations must not be avoided.

Decision-making has to be through informed choice rather than a reaction to events that could have been foreseen. It is the role of advisers working with families to help guide, mediate, and bring to bear their knowledge and expertise to inform the discussions and ensure issues are addressed before they become risks.

As the world begins to recover from the immediacy of Covid-19 there is an opportunity for families to use this moment as the time to pause, reflect and review as they look ahead to the future. Any crisis brings to the fore the need to plan for other crises as demonstrated by the immediate flurry of will-making at the beginning of the pandemic.

Now is an opportune moment to carry out a wholesale family audit, reviewing arrangements, discussing plans and preferences, and creating alignment between what has gone before and what comes next. This should include an acknowledgement that a change of direction may be necessary to successfully integrate the next generation of wealth creators and guardians. This naturally involves a financial audit, and wealth assessment and planning. That process cannot be separated from the commercial realities of planning for a family business. The reality of family wealth or a family business is all too often forgotten: there is a family at the heart of it.

With the pandemic resulting in significant economic change and accelerating structural shifts that were already underway, as well as, sadly, making us all too aware of the fickleness of mortality, it is more vital than ever to have difficult conversations early, so that different viewpoints, expectations and priorities can be addressed before they become issues that need addressing or ultimately problems that need resolving.

OUR PEOPLE

Rebecca Fisher

Rebecca advises families and individuals on all aspects of private client law including wills, estate planning, administration of estates, trusts and powers of attorney. Rebecca regularly advises clients including entrepreneurs, business owners and multi-generational family businesses on succession planning, with particular focus on inheritance tax and capital gains tax planning. In addition, Rebecca regularly assists her family law colleagues by advising their clients on the tax and trust implications of family breakdown.

James Carroll

James specialises in the financial and other consequences of relationship formation or breakdown, and the additional complexities faced by those who are ultra high net worth or in the public eye. His principal role is to help people separate sensibly. He is well known for having a commercial, constructive and resolution focused approach combined with the ability to pursue litigation through the courts with tenacity where necessary.

Alison Regan

Alison is a specialist trusts and estates lawyer, representing high net worth individuals, trustees, executors and beneficiaries in contentious trust and succession matters. These range from will and administration disputes to breach of trust issues, the removal of executors or trustees and construction and rectification. Many of these involve international or cross-border issues. Alison aims to resolve disputes constructively and efficiently but will proceed to trial as necessary. She also works closely with family and private client colleagues in relation to stress testing in the context of divorce or estate planning.

David Webster

David advises on a wide range of corporate and commercial matters with particular areas of expertise including the sale and purchase of companies and businesses, company law and governance issues, and ownership structures. He works both with trading concerns and family businesses, and is experienced in handling the different dynamics involved in relation to, for example, joint venture arrangements between commercial parties as opposed to dealing with more family-oriented matters such as Family Investment Companies.

Matt Garrod

Matt Garrod is a real estate specialist who advises family offices, property companies and private investors on real estate transactions with a particular focus on investment, asset management, strategic advice and real estate finance. He has extensive experience in leading multi-disciplinary teams in complex matters such as portfolio transactions and development projects.

Matt Bosworth

Matt leads the regulation, private prosecutions and investigations practices, handling both criminal and civil law cases. He has a focus on privacy and reputation management for high-profile and wealthy individuals and families. He resolves sensitive and potentially inflammatory situations to allow individuals and organisations to retain their privacy. Many of Matt's cases involve international elements.

Chris Rowse

Chris advises individuals and families who wish to donate to charity, including on tax-efficient giving and vehicles for philanthropy. Chris provides bespoke advice and draws on his expertise advising some of the most prominent charities in the country.

OUR SERVICES

Wealth and succession planning

Often working closely with a family's other advisers, we offer guidance on all legal aspects of wealth planning and protection including:

- succession planning – we specialise in everything from wills, powers of attorney and estate administration to trusts and Family Investment Companies
- tax advice – we are able to advise on all areas of tax in relation to wealth and succession planning, including inheritance tax, capital gains tax and stamp duty
- entrepreneurs and family businesses – key areas we offer guidance on include business property relief and entrepreneurs' relief
- cross-border – where assets straddle multiple jurisdictions, we can work with our private international law team and firms in our global network to provide clear, practical advice

Commercial interests

Whether your commercial interests include a family business or stakes in other companies, we can advise on issues such as ownership structures, commercial agreements and corporate transactions.

Reputation management

Our specialists have a great deal of experience in protecting the reputation of both high-profile individuals and private families, whatever the matter at hand. We are also able to call on our network of PR and associated contacts.

Philanthropy

We advise on all aspects of philanthropy, from establishing a family foundation to setting up a donor-advised fund. Our nationally-recognised charity experts can also help with charity governance, compliance and day-to-day operations.

Family relationships

For any family, relationship changes will often have significant immediate and long-term consequences – both emotionally and financially. Expert, empathetic advice is vital to ensure you are taking the right course and the process is sensitively and constructively handled. Our services include drawing up pre-nuptial, post-nuptial and cohabitation agreements. We also advise on the end of relationships (whether married or not) on issues such as financial settlements and the arrangements for children after divorce or separation.

Real estate

Whether it be in relation to a specific transaction or providing strategic advice, our real estate lawyers have extensive experience dealing with family offices and their real estate portfolios. Our expertise is in all areas of property law from straightforward conveyancing of the family home to portfolio management, including acquisitions and disposals, development, planning and construction, investment, landlord and tenant, property management and property finance. We also deal with sale and purchase of high value residential properties and landed estates.

Resolving disputes

It could be a disagreement over the way the family trust is being run, a threat to a trust or assets, or a challenge to the succession of an estate. Whatever the nature of the dispute, we can help to resolve it in the most sensitive and efficient way, whether through negotiation, mediation or hard-fought litigation.

Other services

Russell-Cooke can help with a variety of legal issues, including immigration, education, planning, construction and disputes. Please contact a member of the Family Office to discuss any legal needs you may have.

Russell Cooke

russell-cooke.co.uk/familyoffice