

**RESHAPING BUSINESS STRUCTURES**

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# **REIMAGINE & REFOCUS**

Rethinking Business Strategy



## STEVE BERRY, ACUITY LAW

Steve is an experienced corporate finance lawyer and Chairman of Acuity Law. Steve has a strong track record in advising technology companies and has extensive boardroom experience, having served on a range of boards as commercial and/or legal director.

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Turn your management team into a group aligned with shareholders to maximise capital growth.  
Steve Berry, Claire Knowles and Christian Farrow from Acuity will cover how to use equity participation & company structures to motivate managers.



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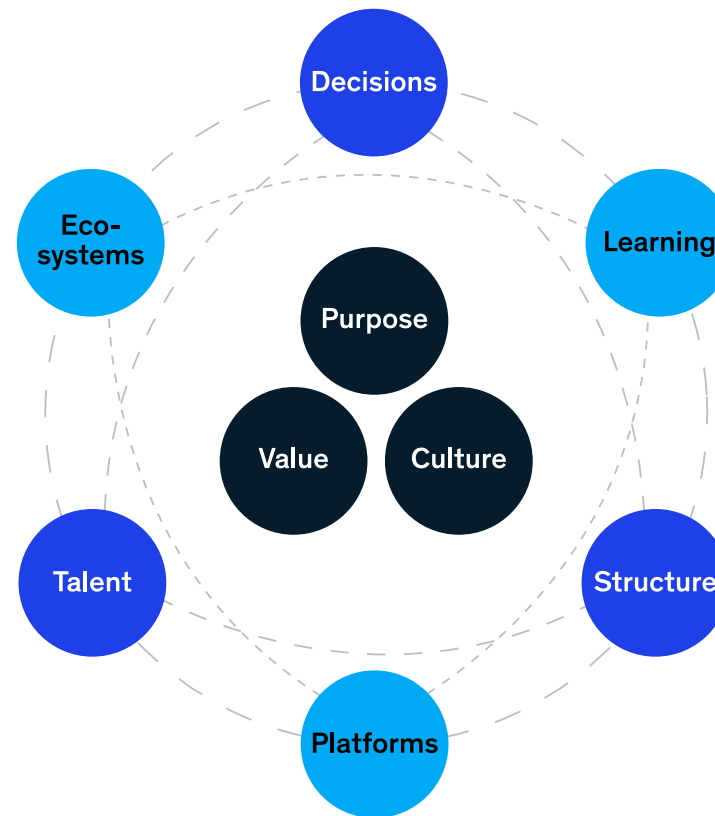
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# POST PANDEMIC ORGANISATION

The post-pandemic organisation will take shape along the three dimensions

Talent should underpin every strategic choice and other business decision you're making right now. Companies that overlook the importance of their people will always miss the upside potential of what their colleagues might have been capable of. They will fail to capitalize on the opportunities that inevitably arise from this or any other economic shock.



- Who we are
- How we operate
- How we grow

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# The Range Of Employee Ownership

Level of ownership	Type of company	Business driver
0%	Traditional and established family owned companies	Stability
0% to 50%	Growth companies	Building value to exit
Over 50% less than 100%	Management led companies – maybe spin outs from large companies and where no material funding need. Can include EOTs	Controlled succession
100%	Pure cooperatives and social enterprises	Non-economic considerations

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# Results of Poll 1

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1. Do you think that having an element of employee ownership is a good thing?

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● Yes	9
● No	0
● Maybe	2



2. If so, at what level:?

[More Details](#)

● 0-25%	9
● Above 25% but Less than 50%	1
● Over 50%	2
● 100%	0



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## Achieving The Right Level Of Employee Ownership

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*“Britain should become more of a John Lewis economy that would allow more individuals to have a real stake in the business that employees them.”*

*Nick Clegg, 2011*

*“Shared ownership has fallen out of vogue as the economic cycle has turned. During times of plenty, employee-owned companies share their success with all. In period of stress, though, they have to make painful decisions, such as cutting pay and axing staff. And without external shareholders they struggles to raise rescue funding.”*

*Times Business editorial 11/03/21 – article on John Lewis.*

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# The 3 Stakeholders In A Company

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## The Owners

Rewarded purely through shares and receiving an income through dividends and capital return if there is an exit.

## The Funders

A commercial return through interest on debt, and if taking an increased risk through an equity interest. This may be a shareholding or warrant and may include preferential rights.

## The Management

Salary and bonuses for day-to-day activities. Not taking a risk by tying up capital, so any equity element has to be for non-economic reasons.



# Objectives Of A Management Share Plan

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## **Recruitment and Retention**

Retain and incentivise employees who are key for the growth and development of all businesses at all stages, especially for startups.

## **Increase Motivation and Output**

Increase employee engagement in the business and help employees to feel invested in the success of the company.

## **Tax Efficiency**

Provide tax efficient rewards to employees by delivering capital returns (which are taxed at a rate that is significantly less than employment income tax).

## **Reduce employment Costs**

Potential to reduce employment cost. and reduce pressure on cashflow when favoured over cash incentives.

## **Cultural**

Reinforce a culture of management and employee engagement.

# The Sweet Spot For Growth

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- A material stake for management – say circa 25%.
- Enables founders and funders to participate in growth of business.
- Potential to access growth (private equity) funding.
- Senior management can be bound into an exit plan.
- Potential to widen for employee participation.

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# A Typical Equity Structure For A Growth Company

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- **Growth Share Schemes**
  - No tax charge on award
  - Management has an equity stake that shares in future capital growth.
  - Designed to encourage loyalty and retention.
- **EMI Options**
  - Very tax effective
  - Typically vest on exit
  - Work well for wider and deeper awards

# Key Features Of A Management Equity Structure In A Growth Company

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*These considerations apply to share and option (EMI) awards*

- **Valuation**
  - Company value on date of issue impacts on tax treatment.
  - Post COVID – good opportunity to justify lower company valuations.
- **Vesting**
  - Scope to phase in value over time (typically 3 to 5 years) or with options to peg to exit.
  - Scope to include performance criteria.
- **Leaver Provisions**
  - Encourage retention through good and bad leaver rules

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# The Financial Considerations

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## EMI Options

- Ability for recipient to benefit from Business Asset Disposal Relief.
- Company benefits from tax deduction on exercise.
- Limited to companies that have gross assets of <330m and <250 FTEs.

## Growth Shares

- Ability for recipient to benefit from Business Asset Disposal Relief if over 5%.
- No constraint on size of company.

# Management Equity To Support Succession

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For many owner managed businesses succession is a real challenge.

- There can be a reluctance to do a trade sale and a coupled by a wish to retain some level of on-going ownership.
- Possible solutions are:
  - Vendor led management buy-outs – where management acquire a controlling (over 50%) interest, supported by a refinancing of the business through debt and possibly institutional equity.
  - An Employee Ownership Trust (EOT) structure.

# Vendor Assisted Management Buy-outs

- Current shareholders sell to a Newco that has been established by management.
- Newco raises external capital (can be debt and equity) and acquires the shares in the trading company for cash, loan notes and shares.
- Resultant structure enables current shareholders to reduce from a 100% shareholding to an >50% shareholding.
- Loan notes represent “vendor funding” and can be interest bearing.
- Management drive business forward and to a capital event / exit.
- Tax effective for all parties.

# Employee Ownership Trusts

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- EOTs offer a very tax effective way to transfer ownership to employees – 0% CGT for selling shareholders provided conditions met.
- EOT has to be for the benefit of all employees and must acquire >50% of the share capital and be in control.
- Existing shareholders can retain an interest within the 49.9% and key managers can be awarded shares out of this part of the equity.
- EOT structure can be supported by debt that is raised in (or guaranteed by) the company to give EOT cash to pay out on day 1.
- Selling shareholders may leave remainder of purchase price outstanding to be paid out post completion.



# Cultural And Governance Considerations

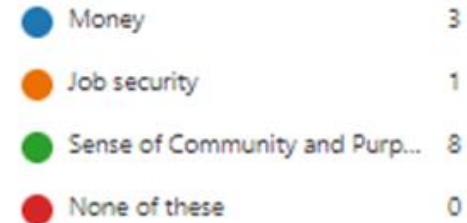
3. Do you have employee representation on your Board?

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5. What do you think motivates employees the most?

[More Details](#)



4. If not is it a good idea?

[More Details](#)

[Insights](#)



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Claire Knowles  
Acuity Partner

## Key HR And Cultural Issues:

1. Having decided that we will implement a management and employee share plan how do we best communicate our plans to our management and staff?
2. How do we ensure our current remuneration and performance review structure is consistent with the message that we want to give to staff that they are part of a business with a clear strategy?
3. How do we ensure that we are not just rewarding time served and how can we use our remuneration and equity structure to attract new talent and to get the best out of existing talent?
4. How does employee board representation work in practice – is it just lip service?

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# Q&A SESSION

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