

Bitesize Business Newsletter

Starting a Business, Partnership or Private Limited Company

We are often asked what is the best structure for a new business, partnership or private limited company. There is no right or wrong answer but here are some of the pros and cons of each.

Formalities

A partnership requires no written agreement (even if it is advisable) and there is no registration process to go through. All financial information remains private.

However, with a limited company, there is a formal registration process with Companies House under the Companies Act and the need to file an annual confirmation statement. Accounts/financial statements also have to be filed and are open to public inspection.

Profits and Losses

All profits and losses belong to the partners who are taxed individually on their income from the partnership. If the partnership can't pay its debts, then creditors can pursue the individual partners and their personal assets.

With a limited company, the profits or losses belong to the company not the shareholders or directors. But if the company can't pay its debts the creditors cannot pursue the shareholders for the company's debts because their liability is limited to the amount they paid for their shares. Their personal assets are not at risk unless they have offered personal guarantees to any creditors.

Outside Investment

The ability to attract outside investment is limited in a partnership because there is no defined portable interest which can be sold to the investor to represent his investment.

In a limited company, existing shares can be sold to an investor or new shares can be issued.

Borrowing

Partnership borrowing will again be in the names of and at the personal risk of the partners to the business.

Borrowing by a limited company in theory gives the shareholders the benefit of limited liability. But in practice, this benefit can be illusory as banks will often require director shareholders to give personal guarantees for the liabilities of the company- particularly where the assets of the company are not sufficient to cover the amount of the loan facility.

Which is best for you?

There is no simple answer to this and it will depend on several factors including the nature of the business, the initial capital required and your attitude to risk. It is essential to take legal advice at the outset to help you decide what will meet your requirements most effectively.

For information and advice on starting your own business, partnership, or limited company, visit our website, or contact the Commercial team on 01934 623 501.





6 Top Tips: Protecting Your Start-up Business

Taking care of the legal aspects of your business from the start leaves you free to concentrate on winning new customers and delivering what they need. You'll have the reassurance that there are no unforeseen legal issues lurking around the corner.

Here are our top tips for start-up businesses:

1. Don't Put It Off

'Get the business off the ground and worry about the details later' is an attitude that causes serious problems for countless business owners and partners every year. Dealing with important business matters head on and early on will ensure that you are set up to push the business forwards.

2. Work out your terms and conditions BEFORE your first contract

It is easier to pursue payment when you have clear and legally enforceable terms and conditions. It will also help you to avoid contract disputes when expectations are clear.

3. Employment contracts protect everyone

Have a watertight and legally compliant contract of employment before you hire anyone. Employment tribunals can be complex and expensive if you do not have the right formalities in place from the start.

4. Partnerships don't always last

A robust partnership agreement will specify what will happen if one partner dies, wants to leave, or if things just don't work out. Protect your investment and your livelihood, ensuring that you have the right legal paperwork from the start.

5. Details matter for limited companies

The Memorandum and Articles of Association are important documents to get right – alongside the terms and conditions and employment contracts. If you are starting up a limited company it is important that the all details are correct and complete from the outset for the best chance of smooth running and less issues in the future.

6. Leave the 'boring' essential stuff to us

The PowellsLaw team makes everything simple with three levels of business start-up pack for: sole traders, partnerships and limited companies. For a fixed price these will get you up, running and protected with the minimum time and effort.

- The sole trader package: T&Cs and a contract of employment.
- The partnership package: T&Cs, employment contract and the partnership agreement.
- The limited company package: everything you need to establish and register your company plus T&Cs and employment contract.

If your needs are slightly more complex, we will provide a tailored package of documentation and advice at a competitive cost.

You can read more about our start-up packages on our website. Or give the team at PowellsLaw a call on **01934 623 501** and we'll be happy to advise you.

Bitesize Breakfast meetings

Have you heard about our Bitesize Breakfast meetings? On the first Thursday of every month, we open our office to the local business community, with a chance to network and discuss topical business issues. Why not pop in for a coffee at our next session? **It is free to attend and everyone is welcome.**

The first meeting for 2019 will be on the 7th February at 9am.

Location: 7-13 Oxford Street, Weston super Mare, North Somerset, BS23 1TE

If you would like to know more before attending, please call Rebecca Sage on **01934 637 908** or email rsage@powellslaw.com.

Increases to Statutory Pay Rates, Statutory Sick Pay & Weekly Lower Earnings Limit for NI Contributions

From April 2019, the statutory pay rates for maternity (SMP), paternity (SPP), adoption (SAP) and shared parental leave (SSHPP) and maternity allowance (MA) will increase from £145.18 to £148.68 per week.

The statutory sick pay (SSP) rate will increase from £92.05 to £94.25 per week.

The weekly lower earnings limit which applies to national insurance contributions, below which employees are not entitled to SMP, SPP, SAP, SSHPP and SPP (but remain entitled to MA), is set to rise from £116.00 to £118.00.

If you would like any advice in relation to employment law please contact Glyn Evans on **01934 637 911** or evans@powellslaw.com.



Q&A: How can I protect my business if I become unwell?

Q: I own a small building company which employs staff. Last year I was unexpectedly in hospital for 4 months. My wife wasn't able to access my business account and my suppliers refused to talk to her. All of my bills went unpaid and it put my business at risk. In the event that I am unwell again, I have a friend who knows more about the trade and I think it would be better if he ran my business for me. Is there something that I can do to prepare for this?

A: Yes it is possible to arrange a Lasting Power of Attorney (LPA) for Business to give your friend the legal authority to deal with your business affairs. It is normally straightforward to arrange and tax deductible as well. People are increasingly familiar with making LPAs for their private affairs. An LPA – Property and Financial Affairs would cover business interests as well as personal finances. However, even if you already have an LPA, the person appointed may lack the relevant skills and abilities to act competently and appropriately in a business capacity.

Most personal LPAs appoint family and loved ones but unless they are directly involved in the business, they may not be the most appropriate choice. You should consider whether your friend is the right person to be your attorney. You mention that he “knows about the trade” but would he have the skills to run your business? Would he for example understand your contractual obligations or appreciate health and safety or insurance issues or know how to deal with employment matters or tax complications?

You should act now. PowellsLaw are well placed to advise you on the best Business LPA for your circumstances. For any questions or to book an appointment with one of our solicitors to discuss an LPA for your business please contact Stephen Soper on **01934 623 501** or email soper@powellslaw.com.



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